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THE

PARLIAMENTARY DEBATES,

New Series,

VOL. III.

*** *All Communications for this Work, if forwarded to Mr.* WRIGHT, *No. 5, Panton-Square, or to Mr. T. C.* HANSARD, *Peterborough Court, Fleet-Street, will be carefully attended to; but as an early publication of the proceedings of each Session is extremely desirable, it is respectfully requested that such Communications may be forwarded with as little delay as possible.*

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THE

PARLIAMENTARY HISTORY OF ENGLAND,

FROM THE EARLIEST PERIOD

TO THE YEAR 1803.

THE

PARLIAMENTARY DEBATES:

FORMING A CONTINUATION OF THE WORK ENTITLED

"THE PARLIAMENTARY HISTORY OF ENGLAND

FROM THE EARLIEST PERIOD TO THE YEAR 1803."

PUBLISHED UNDER THE SUPERINTENDENCE OF

T. C. HANSARD.

New Series;

COMMENCING WITH THE ACCESSION OF GEORGE IV.

VOL. III.

COMPRISING THE PERIOD

FROM

THE EIGHTH DAY OF SEPTEMBER

TO

THE TWENTY-THIRD DAY OF NOVEMBER, 1820.

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1821.

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IN the present Volume of the Parliamentary Debates, the important Proceedings on the Bill of Pains and Penalties against Her Majesty the Queen, are brought to a termination. The Editor feels it almost unnecessary to assure the Subscribers and the Public, that no pains have been spared to give those Proceedings with the greatest accuracy. The Debates which took place in the several stages of the Bill will be found detailed at great length. The eloquent Speeches of the Counsel who appeared for and against the Bill have been carefully revised and corrected, and compared with the Notes of the eminent Short-hand Writer to the two Houses, obligingly communicated by the Agents on both sides for that purpose. And the Examinations in chief, the Cross-examinations, the Re-examinations, the Examinations by the Lords, together with the Questions propounded to the learned Judges and their Answers, the sundry Reports, Protests, &c. &c. have all been faithfully transcribed from the Minutes and Journals of the House of Lords. The Editor, therefore, is induced to hope, that he has not been unsuccessful in his endeavours to present the public with the only complete Report of a Proceeding which, in interest and in magnitude, yields to no proceeding that ever occupied the attention of Parliament and of the Nation.

5, Panton Square,
June 18th 1821.

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MR. ATTORNEY GENERAL (Sir Robert Gifford, knt.)
MR. SOLICITOR GENERAL (Sir John S. Copley, knt.)
DR. ADAMS.
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COUNSEL ON BEHALF OF HER MAJESTY.

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THE QUEEN'S SOLICITOR GENERAL (Thomas Denman, esq.)
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JOHN WILLIAMS, esq.
NICHOLAS TINDAL, esq.
THOMAS WILDE, esq.

SOLICITOR.

WILLIAM VIZARD, esq.

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Parliamentary Debates

During the First Session of the Seventh Parliament of the United Kingdom of Great Britain and Ireland, appointed to meet at Westminster, the Twenty-first Day of April 1820, in the First Year of the Reign of His Majesty King GEORGE the Fourth.

HOUSE OF LORDS.

Friday, September 8, 1820.

BILL OF PAINS AND PENALTIES AGAINST HER MAJESTY QUEEN CAROLINE, &c.

DEFENCE.

The House was called over; and the order of the day being read, for the further consideration and second reading of the Bill, intitled "An Act to deprive "Her Majesty Caroline Amelia Elizabeth of the title, perogatives, rights, "privileges, and exemption of Queen-"Consort of this Realm, and to dissolve "the Marriage between His Majesty and "the said Caroline Amelia Elizabeth;" and for hearing Counsel for and against the same; Counsel were accordingly called in.

The *Lord Chancellor*.—In obedience to the commands of the House, I have now to ask you of Counsel to the Queen, in what manner you propose to proceed in the Defence?

Mr. *Brougham* (Attorney-General of the Queen).—My lords; it is our wish to proceed forthwith.

The *Lord Chancellor*. — Proceeding forthwith, do you mean that it is your wish to proceed in opening the Case, and then following it immediately by Evidence, or to open the Case, and then to pray time to produce the Evidence? I understand it to be my duty to ask you that question.

Mr. *Brougham*.—Undoubtedly, my lords, we wish to give every information to the House, consistently with our duty to our client. It is probable—but really I cannot say for certain—it is probable, that we shall wish to call evidence; in which case, there are two classes of evidence, to one of which the observation respecting delay alone is applicable. The other class is not within the scope of that remark. Your lordships will allow me to say, that if I shall feel it advisable to call evidence; and in the second place, if I shall also feel it advisable to call evidence not now in this country—in that case, it will be necessary for us to entreat the indulgence of the House, after having been heard to open our case. I trust I have made myself understood. My lords; my learned friends about me desire me to add, and I feel myself also authorised to add on my own account, that it is also possible I shall not feel it necessary to trouble your lordships with evidence—It is possible.

The Counsel were directed to withdraw.

The Earl of *Lauderdale* observed, that it was obvious, after the answer just given by her majesty's attorney-general, that it was necessary he should have a longer time allowed to bring over his witnesses. He thought, however, the answer given by the counsel to the question put by the noble and learned lord on the woolsack, was by no means as explicit as it ought to be; and he therefore trusted that the counsel would be called upon to give a more definite answer.

Lord *Erskine* was of opinion, that the learned counsel ought now to be permitted to proceed with his case in defence of her majesty the Queen, without be-

ing called upon to determine whether he would stop, or where he would stop, in the evidence he meant to offer to their lordships. He ought not to be now called upon to give any answer to such a question as it was the wish of his noble friend to put. When he (lord Erskine) practised at the bar, he should have complained of any question which went to influence his determination in the defence of his client until he had entered upon and proceeded with that defence. The learned counsel ought to be at liberty to begin his defence just as he pleased, and afterwards either to call witnesses, or not to call them, as suited best his own sense of the trust reposed in him. In all the courts of law—and he begged to assure their lordships that it was his anxious wish, in this case, to follow the analogy of their practice, as far as it could be applied to so anomalous a case as the present—in all the courts of law the line of proceeding was this:—The case was set down for a hearing: when its turn came, the counsel for the case were called upon to proceed forthwith: they must do so, or show ample cause why they could not; or they must render the further proceeding unnecessary, by withdrawing the record. When the counsel once began their case, it was too late to stop it—their course was then onward, and the defence must follow in consecutive and immediate order. If, in the course of these proceedings, in the order he had mentioned, any apparent injustice had been committed, which the presence of a particular witness, who could not then have been forthcoming, would have prevented, then the law wisely provided a remedy in the shape of an application for a new trial. In the courts below, the scales of justice were held equally poised between both parties in the cause; the practice in them was calculated to work without partiality or prejudice; for the law of England was a law of humanity and mercy.—He would just remind their lordships how the case of her majesty the Queen was now placed by the proceedings had before their lordships. The bill had gone forth to the world, the preamble of which contained the charge against her majesty. The case in support of that bill had been heard; and he humbly submitted, that if their lordships meant to have called on the counsel for the defence to proceed straight-forward through the whole of their evidence, they ought to have, in the first instance, furnished them with the means of meeting the charge, by giving them, if not a list of the witnesses, at least a specification of the times and places to which the accusation referred. Had their lordships given this information, by acceding to the motion which he had, on a former occasion, submitted to them, and then postponed the commencement of the case until proper time was allowed for all parties to be prepared, there would have been no ground for claiming any delay between the evidence for the prosecution and that for the defence. But their lordships had thought proper to reject his motion; and they had by so doing deprived the accused of the opportunity of knowing any thing like the particular line of defence which it might be necessary for her to adopt, until the whole of the case for the Bill had been gone through. He could not, under these circumstances, see how they could call upon her majesty's attorney-general to state the precise course which it was his intention to take in shaping the defence. To call upon him now to say whether he was ready to go through his whole evidence would be quite peremptory, considering that their lordships had already admitted that delay would be necessary to enable the counsel fully to cross-examine the witnesses in favour of the Bill. It was obvious, he thought, that they had as yet hardly time to acquire that information respecting the witnesses which could be supposed to qualify them properly for a full cross-examination. At all events, the question of adjournment was not now before their lordships, and they were not called upon to anticipate it. For that reason, they ought not to interpose and prevent the counsel from entering upon the defence, now when the season had arrived for his meeting the charge. The attorney-general had lately made an application to their lordships for delay, which he had afterwards withdrawn; and the noble and learned lord on the woolsack subsequently admitted the propriety of that application, and added, that the attorney-general had a right to make it. Why, then, say to the Queen's attorney-general, "You must adjourn now, or not at all?" Why anticipate that he may make an application for delay, which may not, at the time he shall make it, be proved to be right, to be reasonable and proper? He conjured the House just to reflect for a moment at its present situation.

The case for the bill was closed: the counsel against it were called upon for their defence; they replied, that they were ready to proceed with it forthwith. Yet, notwithstanding their undoubted right to meet the case so adduced, some of their lordships appeared to think that the case had better be now adjourned, until the counsel could say they were prepared with the whole of their evidence. A delay under such circumstances would, he thought, be most unfavourable to one of the parties. The evidence in support of the bill had gone forth up to the present state; it had gone forth not only to the public of this, but of every other country. To say that such a publication of the evidence was calculated to make no impression, was to utter that which could not be the fact; indeed, the noble earl opposite (the earl of Liverpool) had, much to his honour, admitted that it was calculated to make such an impression, but that there was no avoiding it; though he added, that he had no doubt their lordships, who were the judges in the case, would suffer no impression to be made upon them until they had heard the whole of the case on both sides. But how was it possible for them to avoid the influence of this first impression, which the statement of one part of the case was necessarily calculated to produce? He hoped no man would consider him either blasphemous or irreverent, when he said that God could not make them forbear feeling that which he had in his wisdom already ordained, and which it was the constitution of human nature to feel, according to the influence of circumstances. It was therefore impossible for their lordships, with the attributes which belonged to human minds, to look over the minutes of these proceedings, without feeling that impression which they were calculated to excite. If they had intended to adjourn without hearing any statement from her majesty's counsel, they were bound to have adjourned when the evidence for the Crown closed; there they should have stopped, if such had been their intention, and not permitted the solicitor-general to have summed up. What was that summing up? It was what it ought to be, standing as the solicitor-general was placed. He (lord Erskine) had left his seat, and had gone into one of the galleries for the greater convenience of hearing it. The learned solicitor-general had said, in his summing up, not only that the evidence, as it stood, made out a clear case against her majesty, and in support of the whole crime set forth in the preamble of the bill; but he had felt it his duty to add, that he could not, by any possibility, see or imagine how, from the nature of the evidence, the facts stated by the witnesses could in any manner be combatted. He had repeated over and over again, that it was impossible the facts could be rebutted—that no such consequence could arise from any evidence which could be produced for the defence. The learned solicitor-general, in making these comments upon the case he was bound to support, had done no more than his duty; but if their lordships, after hearing that speech, decided upon adjourning without hearing any observations from the counsel against the bill, then they would, during the time of their adjournment, be it for two or three months, be exposed, not alone to the impression of the evidence for the bill, but also of the speech made in support of it in the summing up of the evidence. He begged leave just to put a case. Suppose the case of a prosecution which had terminated at a late hour in the day, and that the counsel for the prosecution applied to the judge to adjourn until the following day, when it would be more convenient to begin with hearing the defence; suppose, then, the counsel for the defence should say, "No, I oppose the adjournment; I desire to have my right of answering this case before the jury shall go home under the influence of the prosecutor's statement: I seek now to be heard to take off that impression, which I can do." Did their lordships think any learned judge upon the bench would tell that counsel who demanded to be heard, that he must desist from removing the impression created by the counsel for the prosecution until the following morning? No judge would say so; if he did, he would violate his duty.—Besides, he desired to know on what ground the question of adjournment was brought at all under their lordships' consideration at the present moment. No adjournment was now called for, and no decision upon it was now necessary. Whenever that subject came before them, their lordships could consider the grounds upon which it was made, and dispose of it as their sense of justice dictated. An adjournment now would, it was said, be favourable to the Queen, as it would enable her ma-

jesty fully to meet the evidence against her: now, on the contrary, he thought it would be rather unfavourable to her, after the summing up had been permitted. He conjured the House to suffer the Queen's attorney-general to proceed: he had stated that he was prepared with testimony which would overthrow the impression which the statement of counsel for the bill was calculated to produce. Let, then, "the bane and antidote" go forth both together; and let their lordships carry home in their minds the statement on each side, instead of the statement on one. If they suffered the counsel against the bill now to proceed, they would, as he thought, be acting right; if they refused him the permission he claimed, then he thought they would be inflicting a great wrong. It was only right to call upon their lordships to suspend, so far as they had the power, the prevalence of any opinion upon the case, until the whole was gone through. For himself, he had no feeling upon it but the attainment of the real ends of justice; but he begged that he might not be under the necessity of meeting an adjournment under the impression of *ex-parte* evidence and a summing-up speech.

The Earl of *Lauderdale* said, that the question on which their lordships were now called upon to decide was precisely this—whether, if an adjournment were necessary, that adjournment should take place at the time the case for the bill had closed; or whether the counsel against the bill should be permitted to make his opening speech, and then to have an adjournment before the production of his evidence. Now, he was prepared to contend, that if the House adjourned at all, the present was the proper time when that adjournment ought to take place [Hear, hear!]. They could take no other course respecting an adjournment without committing great injustice. He was perfectly ready to concur in opinion with his noble and learned friend, that an adjournment at any time was a great evil; but they had in this case a choice of evils, and they were bound to select the lesser of the two. It was true that, if they adjourned now for the space of two months, both the evidence and the speech of the solicitor-general would go forth to the world during such a recess; but it was a mistake to say it went forth unaccompanied by cross-examination; for there had been cross-examination, and the adjournment afforded ample opportunity of collecting whatever evidence could be had to combat the facts asserted in support of the bill. He felt convinced that no fair man, that no member of their lordships' House, would suffer any impression to operate upon his mind to the prejudice of her majesty the Queen, until he had heard her defence, and had arrived at the conclusion of the whole case. He was at a loss to see what just grounds of complaint the counsel for her majesty could have at the summing-up being permitted before the adjournment: that adjournment, surely, would enable them the better to ruminate over the case for the prosecution, and the value attached to any of the details of evidence in its support, and to make a more complete and decisive reply to all that had been urged. As the case stood, the evidence had gone forth, and the summing-up could be compared with that evidence; but if they permitted the attorney-general of her majesty to proceed now, they would be hearing a statement unaccompanied by any proof in its support. He knew the counsel of her majesty to be men of as much honour, respectability, and talents, as could be found, and that there was no danger of their making use of the opportunity of stating their case to assert any thing as a fact which they were not instructed they should afterwards have the means of substantiating in evidence; but he could not consent to intrust counsel any where with the privilege of stating the case for a client, unless they were to be immediately after called upon to adduce their evidence. He saw great danger in extending such an indulgence to any body. Indeed, such a proposition as this had never before been made in any court. To talk of what the courts below would do in such a case, was to reason without analogy; for there never before was tolerated, in any case in the courts, such an adjournment as their lordships were now ready to concede to the Queen, between the opening of the case and her defence. But he did remember having been present at the hearing of a case in the courts below, when an application made on the part of the defendant for a few hours' delay was peremptorily refused. Did not the late lord Ellenborough, in lord Cochrane's case, give that refusal? The case for the prosecution had been closed, and the counsel for the defendant made an application to have until the following morning

to prepare the defence. Lord Ellenborough instantly rejected the application: he said that he had a great many hours of the day yet to spare, and that he could not think of interrupting the proceedings. He was perfectly at a loss to conjecture the object of the learned counsel of the Queen in wishing to have a speech, and then to adjourn their evidence. If they had their witnesses ready, why not go on? If not, how could they comment upon evidence which might not hereafter be available for them? He submitted to their lordships' candour, whether it was not the general understanding, that the adjournment, if at all, was to take place in the present stage of the proceedings? The fact was, that her majesty's counsel, if their application were granted, must either state a case far short of what they would be able to prove, or else indulge their imagination; and unless he had lost all idea of what was likely to influence the minds of men, such a proceeding would be directly calculated to produce that effect.

The *Lord Chancellor* said, he had never, in the course of a professional life, felt more strongly inclined to avoid any duty, than that which he now was called upon to execute. He begged to be understood as by no means opposing the indulgence in the first instance suggested—the giving time to counsel, if time they required, for the preparation of their defence; but, painful as it was for the House to resolve upon a course, the effect of their resolution would not be confined either to the present case or to the present day; they must act upon some principle on which they could fairly leave the future and the general administration of justice. Most unjustifiably he should disguise his opinion if he said, that evil did not attend the view which he had taken of the case. True, every individual who sat in that House would stand convicted of violating his duty, if he suffered himself to infer any thing even approaching to guilt from the evidence which had been laid before him. It was the duty of the House to remember, that every syllable of it was capable of being disproved, and to guide its conduct by that recollection; but, at the same time, it would be most unjust to represent, it was impossible even to hope, that either the House or the public could, after what they had heard, go away without some prejudice unfavourable to the Queen. Their lordships, then, had but a choice of evils; and it was for them to consider what would be the consequence in criminal cases hereafter, if that evidence which was necessary to the statement of any case which counsel might have to offer were postponed to an indefinite period after that statement had been made. Himself, as well as his noble and learned friend, lord Erskine, were approaching the term of their natural existence. No doubt both acted from a feeling of their duty. He gave credit to that noble and learned lord for more experience in matters of similar description than he could have; still they might differ—they did differ. He agreed with the noble lord that the House had no right to say to a counsel, "If you open your case, you shall pledge yourself that you will call witnesses, or that you will not call witnesses." It would be difficult for him to illustrate his meaning by any reference to the proceedings of the courts below, because in those courts adjournment even for a week was a thing never heard of; and an adjournment for two months was out of the question; but he would ask the noble and learned lord, or any noble lord conversant with the practice of the courts below, whether the rule was not this:—You cannot call upon a defendant's counsel in opening his case, to say whether he will or will not examine witnesses; but if he does commence his statement, and at the close of it is of opinion that he ought to call witnesses, then the commencing his defence has given an implied pledge to the court that his witnesses, should he think fit to call any, are ready to be produced. He did most confidently assert, that in opening a case every counsel gave an implied pledge to the court that he was ready to finish it. Such a counsel might call evidence if he pleased, or, without evidence, take the opinion of the jury; but he must close his case in one way or the other. He made (the noble lord continued) liberal and large allowance for the prejudice which the one side might suffer in the public mind; but suppose the prosecutors had demanded to open their case before they were ready to call their evidence, would such a proposal have been endured? Then look at the nature of the prejudice, which, as to the one party, would be excited. The supporters of the bill had stated their case, and examined their witnesses; the other side had enjoyed the benefit of cross-examination, and of occa-

sional observation upon such cross-examination; but if the House permitted the statement of the defendant's case, what would be the consequence? He agreed with the noble lord upon the cross-bench, that great confidence might be reposed in the honour of the learned counsel to whom the defence of the Queen was committed; and he hoped never to see at that bar any man in whom the fullest confidence might not be placed; but, as a general principle, the security of the administration of justice demanded that implicit credit should not be given to counsel; and it was not because the individuals at present concerned were men of honourable and cautious character that the House would be justified in establishing a precedent, which must be abided by under circumstances perhaps of a different description. It was upon general principles applicable to all men, and upon such principles only, that the House could safely and properly act. But if the House acceded to this request of counsel, what would be the consequence, what the prejudice sustained by the other side? Their lordships would have before them the statement of the defendant, unsupported by evidence, or only by partial evidence; and perhaps, by-and-by, evidence brought forward applying to a case entirely different. And the noble and learned lord told the House that this was all owing to the want of specification in the bill. It was no such thing: a proposition had not long ago been made by the noble and learned lord to delay the proceeding altogether for a considerable time, and then to commence and complete it without stopping; but such a course would have been impracticable; the very nature of the case would have compelled the counsel for the defendant to call for delay at the close of the evidence in support of the bill. In addition to what he had said, he would merely state that he had taken the earliest opportunity of addressing the House with no other view than to discharge a painful, but an absolute, duty. Consistently with that duty—consistently with the honour of a peer, or with the duty of a man—he could not consent to the proposition of her majesty's counsel. He could not agree to their opening their defence without a positive statement that they meant to complete it—unless the House took the commencement as an implied pledge for the completion; and he should have thought that he acted unworthily if he had permitted them to give that pledge without announcing that as a pledge he should consider it.

Earl *Grey* declared, that the present question seemed to him most important in every point of view. It was important as it affected the pending proceeding—important as it affected the influence and the character of the House; and he should have felt himself unworthy of that rank which he always hoped to hold in the opinion of their lordships as an honest and independent peer—if not blessed with those brilliant talents which upon some occasions he could wish to command—if he had not upon such a question offered his opinion in opposition to that of the noble and learned lord who had last sat down. He agreed that it was a case of difficulty, and it was with difficulty that he had come to a conclusion upon it. He had hesitated, doubted, and when he should at last decide, he should feel with the noble and learned lord that he took a choice of evils. With that noble and learned lord, however, he could go no further. He could not agree that the present difficulty ought not to be ascribed to the previous proceedings of the House. It appeared to him to arise entirely out of those proceedings—out of the refusal to give in this case to the Queen that certainty of situation, that specification of crime, and that knowledge of witnesses, which the law of England allowed to every individual similarly situated. The noble and learned lord upon the woolsack had made an assertion—which was merely an assertion—that even if those advantages (rights he ought rather to have called them) had been granted, the counsel for the defence must at last have come to an application for delay. He was at a loss to understand upon what principle that assertion could be grounded. If the specification of charges, the list of witnesses, and the other advantages had been given, nothing could have occurred, as it appeared to him, to entitle her majesty's counsel to make such an application; nothing which could give them any claim to a deviation from those forms in similar cases commonly observed; but, refused those rights by the noble earl opposite, and by the House at large—attacked by charges spreading, in time, over a period of six years, and in space over three quarters of the world—denied that specification of facts, that list of witnesses,

which would have been granted to her in the ecclesiastical courts, and which, if indicted for treason, she might, by the law of Edward III, have claimed even before that House—denied those advantages, an equivalent at some stage became absolutely necessary, in order to enable her majesty to enter upon her defence with that power which the law of England granted even to the meanest culprit—the power of doing justice to her innocence, if innocent she was. The equivalent was necessary; the equivalent was promised; and the question was now, in what manner it should be given?—His noble friend upon the cross-bench, and the noble and learned lord upon the woolsack, had stated the extreme disadvantage which was to arise, if, after hearing an opening speech from the counsel for the Queen, and, still worse, if, after hearing the evidence in part, the House were to adjourn the proceeding. In the first place, he would endeavour to set the House right as to what he took to be a misapprehension of the learned counsel at the bar. He had not understood the learned counsel to propose that, after hearing the evidence in part, the House should adjourn until farther evidence should be procured. The proposition of the learned counsel he took to be this—that he would proceed forthwith with his statement, but that he could not, until he should have concluded that statement, take upon himself to say, whether the impression which it had produced upon the House would or would not make it necessary for him to call evidence. That evidence was of two kinds—part actually in the learned counsel's possession, and part at a distance; but he had not understood the learned counsel to say, that if, at the conclusion of his statement, he should decide to call evidence, he would first produce that which was in his possession, and then apply to suspend the case until he could collect that which was at a distance. The difference was material; for although he heartily concurred in the first application, he was by no means prepared to accede to the second. He had admitted that the House had only a choice of evils, and he would admit, that there would be considerable disadvantage in sending forth to the country a statement, not only unobserved upon by the opposite counsel, but unsupported by evidence, and perhaps incapable of being sustained by the evidence afterwards to be brought in support of it; but the House was not to presume, and God forbid they should have reason to presume, that any counsel, much less those now employed by her majesty, would abuse the privilege granted to them by the House, for the sake of producing a temporary impression. That was not a character to be given to any counsel standing in the situation of attorney-general and solicitor-general to the Queen; and, from his knowledge of the gentlemen who now filled those offices, he was confident that they would state nothing which they did not think material to their case, and nothing which they had not the means, by evidence, of supporting. He admitted that there were questions to be decided, not upon individual character, but upon general principle; that, however they might be disposed to trust the counsel, they must remember that counsel acted from their instructions, and that those instructions might be furnished to them by persons not actuated by the same liberal and honourable principles. He admitted all this; he would admit evil to any extent which the noble lords who opposed the application might desire; he admitted all the difficulty; but he desired them to look at the other side, and to view the effect of the course proposed by the noble lord upon the cross-bench. In what situation did that course leave the Queen? It left her exposed to the effect of all the evidence, true or untrue, which had already been produced. It was said, that all that had been set right by the cross-examination; but it was not by cross-examination only that evidence could be answered. A clever witness, deposing to falsehood, might baffle cross-examination, especially when, understanding the language in which the question was put, he had time to frame his answer while the question was translating. This might defeat cross-examination in any case; but here the cross-examination was of necessity imperfect. What could be hoped from cross-examination, when the examining counsel knew neither the character, the residence, nor even the name of the witness, until he appeared at the bar, and when he was compelled to adapt his questions merely to the circumstances which the witness had deposed to? It was only by contrary proof that such witnesses were to be contradicted; and he would put it to those who now dreaded the effect of a mere statement going forth for three months, to say what would be the effect

of suffering the evidence of perjured witnesses to go forth during the same period. He did not mean to give that character to the witnesses in the present case; but the House had been told, that they must act upon general principles. But it was not the evidence merely that was to go forth. That evidence had been followed up by the summing-up of the solicitor-general, bringing all its circles to one point before the view of the House, and concluding with a complaint of hardship on the part of the learned gentleman (a hardship, however, of which counsel were sometimes given to complain), a complaint that the case had been so strongly made out, that it was impossible for him to foresee what defence could be offered. Now, looking at the comparative disadvantage of granting the application, and of refusing it; and looking at the situations of the parties who, by such disadvantage, were to be affected; he did ask the House, whether, in the spirit of English law, or in the spirit of universal justice, upon any principle of common humanity or compassion, they could subject the accused to that disadvantage, and give every advantage to the accuser? or whether they ought not to respect that humane principle of English law, which surrounded the accused on every side with protection, and cast disadvantage, if disadvantage must be the lot of one, upon the side of the accuser? This he would contend for as a general principle; but in the particular case before the House, it was an argument irresistible; because, how had the disadvantage been created? By the act of the House itself—by the bill of Pains and Penalties—by a proceeding altogether anomalous, for which no precedent could be cited, and which, he trusted would never be cited as a precedent. It was that proceeding that had embarrassed the House with difficulties; every step they took, their embarassments were increasing; the House had encountered nothing but difficulties since first they entered that

> "Perfidious bark,
> "Built in th' eclipse, and rigg'd with curses dark."—

The House had denied a right; they had promised an equivalent. This was the equivalent demanded, and yet the Queen was told that she must submit to have all the evidence against her circulated for months, and not to be permitted to say one word to weaken the prejudice which that evidence had created. In this choice of evils he must choose the least, and he did so when he supported the application. —He had already trespassed too long upon the time of the House, but he could not forbear to say a few words upon the case which had been cited by the noble lord upon the cross-bench; that case had been decided by the late lord Ellenborough; and when he mentioned the name of lord Ellenborough, he mentioned the name of a person for whom he felt the highest respect, who had done honour to the seat which he had filled, and whose conduct, ability, and learning, would be remembered as long as the law should continue to exist; but he had often heard the case in question mentioned, and never without regret on the part of the noble lord's best friends, for the course which he had taken upon that occasion. The case was this: —At a late hour of the night, a counsel (a learned judge now present was the individual) had applied to lord Ellenborough for time, stating his own personal inadequacy, from fatigue, to the task of addressing the jury; and the inadequacy of the jury, from the same cause, to afford him attention. Lord Ellenborough insisted that Mr. Serjeant Best should proceed immediately. Mr. Serjeant Best then did what the learned counsel at the bar now proposed to do—he went on. And, what was the consequence? Did he proceed to the end of the cause? On the contrary, he stopped when he had opened his case. The cause which the judge refused to suspend before the opening the case, had been suspended before the production of the evidence. A case more unhappy, as regarded the arguments of the noble lord who had cited it, he had never heard.—I have troubled your lordships (said earl Grey) longer than I intended; but I have been induced to do so from an imperious sense of duty. From day to day, since this disastrous proceeding commenced, we have been engaged in new difficulties, inconsistent not alone with the rules of parliament, but inconsistent, I am sorry to be obliged to add, with the principles of justice. It is not, my lords, longer ago than yesterday, when a communication was about to be made from your lordships to her majesty's counsel, on a point preliminary to her defence, that a question was put by a noble earl (Lonsdale), founded on an understanding, which was the result of an application of a certain number of your

lordships to the head of the Treasury, as to a separation of the parts of the present bill [Cries of Hear, hear!]. This unheard-of proposition, the recollection of which, even at this moment, shocks me, did not, happily, receive much approbation when explained. To-day we are called upon to make a decision on a choice of evils, all brought upon ourselves by our own acts, and any decision on which, we have the authority of the noble and learned lord on the woolsack for saying, must be productive of bad consequences. I do believe the noble and learned lord. I do feel the character of the whole proceeding to be this—that whatever course we take—whatever decision we adopt, must be injurious to the public safety. But, my lords, in this admitted choice of evils, there still is to be found a duty—and if in the exercise of a sound judgment, we can fix on that choice which is the least encumbered with difficulties, that is the decision which I think we should approve. But if the course I recommend is less surrounded with evils; it has, in my judgment, also this powerful recommendation, that, if we are so situated as not to be able to proceed, without imposing difficulties on both the parties whose interests are affected by this bill, we are bound to adopt that course which the spirit of justice and the whole analogy of British law inculcates, namely, that if difficulties must be imposed, they should be thrown upon the accuser, and not upon the accused—they should be imposed upon those who uphold the bill with the whole influence of authority and power, rather than upon the illustrious personage against whom the whole of that influence and power is directed. My lords, this is the choice which I feel to be dictated by the principles of law and justice; and to the spirit of those principles I appeal. For my own part, I never gave a more satisfactory vote in the whole course of my political life, than I shall do in support of the application this day made by her majesty's counsel.

The Earl of *Liverpool* was ready, he said, to admit the proposition which had been laid down by the noble earl in the beginning of his speech, and with the repetition of which he had closed it—that if the question were one of equal disadvantage to either side, the benefit of the doubt ought to be given to her majesty. But the question for the House to consider was, whether the inconvenience on one side was not beyond all comparison greater than on the other; and he was much mistaken if he should not show their lordships, that whatever inconvenience the Queen might sustain from a refusal of the application, that inconvenience would be incomparably less than that which would result, not only to the particular case in question, but to the general course of justice, from that application being granted. Before, however, he came to that part of the question, he wished to say a few words in answer to what had fallen from the noble earl, as to the cause by which the present inconvenience had been produced. He did not mean, at this time of day, to enter into the question whether the proceeding by bill of Pains and Penalties was the best or the most proper course that could have been pursued; but of this he was certain—that, as far as it regarded the accused party, it was a course far more favourable than the course by impeachment, which had been proposed by the noble earl himself. If the course by impeachment had been adopted, the first proceeding would have taken place in the House of Commons; the evidence would not have been given upon oath; such as it was, it would have been merely *ex parte*; it would not have been subjected to cross-examination, and the accused could have brought no witnesses in her defence. The consequence would have been that a much stronger mass of evidence would have been gone into (because things would have been merely stated, perhaps, which would not have been sworn to); and the whole of that evidence, without cross-examination, without even a remark from the counsel employed on the part of the Queen, would have gone down to the public many weeks, or perhaps months, before the business coming on in the House of Lords would have given her majesty the opportunity of making her defence. Add to that, all the privileges claimed in such cases by the House of Commons; there would be no list of witnesses there; no specification of charges; nay, new charges might be introduced at pleasure; and no one could doubt that, whether the course adopted was or was not the most expedient and most constitutional, it was, as regarded the Queen, beyond comparison the most favourable. In the present case, the facts were charged as specifically as the nature of the transaction would admit; and the accusers came with their evidence upon

oath, and subject to cross-examination and to comment. As to furnishing the names of the witnesses, there was no precedent for it, there was no law which authorised it, with the exception of the law of high treason—a law that stood on its own particular ground—and which exception grew out of the severe nature of the penalties attached to the crime. That exception was contrary to all the principles of our law; and let it be remembered, that some of the highest constitutional authorities known in this country had expressed serious doubts whether, even in cases of high treason, such an indulgence ought to be granted. It was, however, perfectly true, that in the course of the discussions on the present case, it was agreed, not merely from the consideration that a list of witnesses was refused, but on account of other considerations, which had infinitely more weight on his mind—namely, the nature of the crime itself, and the circumstance of its having been committed abroad—that her majesty should have an interval between the close of the accusation and the commencement of the defence, in order, if possible, that she might be enabled to rebut the evidence adduced against her: but he would ask of their lordships, when that advantage was held out to her majesty, whether there was any one of them who supposed or believed that it was to be granted in the middle of the defence, and not at the end of the prosecution; or who understood it in any other sense but this—either that the counsel for her majesty was to proceed immediately with the defence when the prosecution was closed, or else to ask for any reasonable delay that might be necessary to give him an opportunity for the collection of such evidence as would shake the case laid before their lordships? That, however, which was now required was not a delay previous to the defence, but in the course of the defence, and at any period, too, in which the counsel for the Queen might please to demand it. This was a proposition inconsistent with every possible principle of justice. A noble and learned lord (Erskine), for whose authority on subjects of this nature he entertained, as he ought to do, the highest respect, had said that his majesty's solicitor-general could have put off his summing up. He would ask how the solicitor-general could have put it off? How could their lordships have said one word to the counsel for her majesty until the case was closed on the other side? If the cross-examination had been postponed, that would have been the proper period for their lordships' adjournment, in order to afford the opposite party the time necessary for procuring witnesses. But the cross-examination having gone on, the moment the attorney-general for the Queen said, "I have no further questions to ask," then, he maintained, his majesty's solicitor-general was bound to proceed with his summing up, and they had no right to press that circumstance against the counsel for the bill. They had heard a great deal about this cross-examination of witnesses, and he must say that he did, on a former day, when questions were agitated by a noble and learned lord (Erskine) on the subject of furnishing a list of witnesses, state his opinion, that her majesty's counsel had a right to adjourn their cross-examination, because it was hard to suppose that they should be forced to adopt a course that did not seem to them to be most advantageous for the interests of the illustrious individual in whose behalf they appeared; and as they had waved all farther cross-examination, it was to be inferred that they had done so, because any further questions appeared to them to be unnecessary. It might be said, that the counsel for her majesty were not possessed of the names of the witnesses, and that they could not imagine who would be brought forward on the part of the prosecution. Undoubtedly witnesses were produced, of whom, perhaps, they had never heard, and of whom probably they had not even thought. But he conceived it almost impossible for them to read the preamble of the bill, without perceiving of what description some, and those material witnesses for the bill, were, and to what class of persons they belonged. He did not mean to take this observation for more than it was really worth; but he could not allow the remarks that had been previously made on this part of the subject to pass without stating so much.—He now came to what he conceived to be the main point of the question; namely, was there any comparison at all between the convenience which her majesty would derive from the delay required, and the inconvenience that it would occasion to the great cause of public justice? He spoke of a delay not now, but in the middle of the defence. In commenting on this question, he wished, in the first place, to guard himself

from being supposed to throw any reflection whatsoever on the counsel employed for her majesty. He believed they acted as honourably as any men placed in their situation could do; and that, in the course of this proceeding, they looked only to a proper discharge of their duty. But they had said, that, having the interests of a great and illustrious person in their hands, they were bound to consult her advantage in every thing and by every means. He thought, therefore, their lordships had a right to argue, not on the perfectibility of the individuals, but with reference to what might happen hereafter in cases of a similar nature. How did the matter stand? The case had been opened—witnesses were called in support of it—they were cross-examined by counsel, and re-examined by their lordships. The evidence—the *ex parte* evidence, if they pleased—had been sifted as far as such evidence could be sifted. The case, he admitted, had been summed up—a circumstance on which he had already made an observation. Their lordships had the case for the prosecution before them—they were in possession of the charge, and of the evidence adduced in support of it. He did not mean to say that no inconvenience would result from the circumstance of the charge going forth and remaining in the minds of their lordships and of the public for a period of two months. He admitted that it must produce inconvenience. Although their lordships, he was convinced, were desirous to keep their minds in a state of perfect impartiality, unbiassed either one way or the other, yet he could not contend that a disadvantage might not arise, in consequence of their being acquainted with the whole of the case on one side, and the evidence by which it was supported. It was, therefore, a choice of difficulties. And, in coming to a decision, it was necessary that they should consider what situation the House might be placed in, if the application for delay, in the midst of the defence, were conceded. If it were allowed, learned counsel (and he here spoke of learned counsel generally) might open a case on false information, which they possessed no means of proving and verifying. Their lordships might have an imaginary case stated before them, without any evidence whatsoever to support it. What, then, was the difference between a case going forth together with the evidence on which it was founded, and a statement going forth without any means of ascertaining how it would be supported? In the one case, they had the evidence with the statement; in the other, they had a statement without any evidence at all, much less with any evidence capable of cross-examination, or being sifted in any way whatsoever. He could see no just ground of comparison between those two cases. The difference between the inconvenience on the one side and on the other, was as great as that which might arise from pursuing a course of justice or of injustice. He declared he could see nothing so difficult, nothing so objectionable, in point of justice, as stopping suddenly in the middle of a defence. The learned counsel had, he believed, stated (he knew not whether he understood him accurately), that he had no right to declare whether he meant to produce evidence. He admitted that he could not be called on to state whether any evidence would be adduced until he had made his statement for the defence. But he understood the learned counsel to express a wish that he should be placed in this situation—namely, that he should be allowed to call for an adjournment after his statement, or after the examination of any part of the evidence which he might think proper to bring forward. Would that be a prudent time to grant a delay? Would such a delay be consistent with the forms of justice? The noble earl (Grey) had stated, that he felt the latter proposition to be so untenable, that, though he had no objection to granting a delay after the statement for the defence had been made, yet he could not agree that a delay should take place in the middle of the evidence. He could not, however, perceive the great difference between the two courses. The very statement made by the noble earl pointed out the great difficulty of adopting the proceeding which he declared himself ready to support; but where, he asked, was the difference between the one proceeding and the other? Here was a statement to be made which was ultimately to be supported by evidence; and he contended it was not fit, when such a statement was made, that it should go forth to the public without the evidence being produced along with it. Where was the difference, then, between saying, "I will let it go forth without any evidence; but if any part of the evidence is adduced, then the question is over, and I will not agree to that?" For

his own part, he conceived that allowing the statement to be published with a portion of the evidence, was less objectionable than sending it out unaccompanied by any evidence at all. The more, however, they considered the proposition altogether, the more untenable it would be found in every point. He knew of no case but a whole case. The case for the prosecution was a whole case, as it referred to the prosecution; the case for the defence was a whole case, as far as it went to the defence. There was an opening statement, the examination, cross-examination, and re-examination, of witnesses, and finally the summing-up. This formed a whole case; it was indivisible in its nature, and could not be separated. The course which their lordships had agreed to adopt—that of granting a delay before entering on the defence—was, to a certain extent, dangerous; but it was clearly contrary to the principles of justice that the subdivision of a case should be permitted. If they once allowed it, what were the limits to which such a practice should be confined? Where were the points at which that subdivision should cease? The more they looked at the proposition, the more evidently would they perceive, that to act on it was wholly impracticable. They were willing to grant a proper delay before the defence was entered on. That he contemplated as the only proposition that could be fairly and prudently adopted; but to agree to this subdivision of the case, would be to commit tenfold more injustice than could be effected by any other means. He by no means wished to conceal from their lordships that there was no inconvenience, no hardship, in the course that had been adopted; but he would contend, as he had done from the beginning, that there was no inconvenience or hardship attendant on this mode of proceeding that would not have been incurred if impeachment had been resorted to. Beyond this, he was bound to say that the inconvenience and hardship that would be suffered on the side making the application, bore no comparison whatsoever to the inconvenience and injustice that would be suffered by the other side, if the proposition were agreed to. He contended that they could not divide the defence more than they could divide the accusation. They must take the whole together. Her majesty's counsel was fully entitled to his option, to begin now and to proceed with his defence altogether. When he said now, he did not mean this day, but after the lapse of a few days, during which he might arrange his evidence, and shape the manner of the defence. That pause being allowed, he might, if he pleased, go through with the defence completely. But if, on the other hand, he conceived that an adjournment was necessary to the success of his cause, he had a right to demand it before he entered on the defence, the House having previously understood that this was the only alternative. But for the reasons he had given, and from the view which he had taken of the subject, it appeared to him, that no argument could be adduced, and that no analogy could be stated, in support of the claim that was now made for an adjournment in the midst of the evidence.

The Marquis of *Lansdown* was anxious to offer a few words, for the purpose of calling their lordships' attention to the order of their proceedings. As far as he knew, there was no question before the House; no application had been made for delay, as he understood, by the counsel lately at the bar; and no motion had been submitted to their lordships that this House should adjourn. He knew too well the propriety of conduct which distinguished the learned lord on the woolsack, to imagine that he could think himself justified, after the difference of opinion which had been manifested, in stating any thing to counsel at the bar, without an express direction from the House; and he now desired to know (he hoped it was not disorderly in him to do so) what it was the noble earl opposite wished to move should be stated to counsel in the name of the House.

The *Lord Chancellor* observed, that a motion was about to be proposed relative to the statement to be made to counsel when they were called in.

The Marquis of Lansdown wished to know its purport. After a few words from the earl of Liverpool, his lordship proposed the following resolution, which was read by the Lord Chancellor:—

"That the Counsel be called in, and the Counsel for Her Majesty informed, that if they thought proper now to proceed to state the Case of Her Majesty, and meant to produce Evidence, they must proceed, at the close of the Statement of the Case, to produce the whole Evidence intended to be adduced, such being the usual course of proceeding; but

that the House were willing to adjourn for such reasonable time as the Counsel for her Majesty might propose, in order that when they began their Statement, they might be able to proceed in producing their Proof at the close of it."

The Marquis of *Lansdown* said, that now understanding distinctly, for the first time, the terms of the proposition before the House—a proposition not occasioned by any application from counsel at the bar, and no reason having been given to them for proposing that such a communication should be made to counsel in this stage of the business—he felt himself called on to state, with all humility (not being so much acquainted with the course of proceedings in the courts below, nor in matters of higher judicature, as many of their lordships were), that, so far as he was informed on the subject, a more unusual communication than that now proposed to be made to counsel at the bar, had never been known in any court of judicature whatsoever. He would go farther, and say, that if, in answer to that communication, the learned counsel at the bar stated that he would not agree to either proposition, but that he would reserve himself, in performing his duty towards his client, to make such application to their lordships as he might think fit at the moment, and under the peculiar circumstances of the period which might call for that application—if the learned counsel said this, he would, in his opinion, do nothing more than discharge the duty which he owed to his client. And he believed, that, of all the learned counsel who were lately at their lordships' bar, there was not one who would think it consistent with his duty to enter into such a regulation as that now proposed for their lordships' adoption. A more extraordinary proceeding never occurred in a court of justice: such a proceeding was, in fact, never before heard of. A proposition was made to their lordships for the purpose of opening a treaty, and entering into a compact with counsel at their bar—with individuals selected to perform a most important duty. Surely so extraordinary a proceeding was never before contemplated in a court of judicature. What was proposed to be done? Nothing less than this—that the learned counsel at the bar, who were ready to proceed—who stated they were ready to proceed—who had a right to proceed, on account of the situation in which the case now stood—should be told, in direct terms, "You shall not proceed unless you will undertake, in no case whatever, and under no circumstances whatever—ignorant of the evidence you may be able to produce, not knowing its bearings or character—still you must undertake to make no application for delay." This was one part of the question. But in what sort of a situation was the House placed? What were their lordships to do? Why, they were to say, "We, on the other hand, in return for the concession which we demand from you, bind ourselves, say what you will, let whatever circumstances arise, let the varying forms of justice connected with the case be what they may—we bind ourselves to listen to your communication; but, beyond that, we shut ourselves up, we close our ears to the applications of justice, and, by this compact between the judges on the bench and the counsel at the bar, the case is to be decided."—They had heard—and he thought it was absolutely disgraceful to, and unfortunate for, the character of the Crown—of conferences held, of agreements proposed, between the ministers of the Crown and the counsel at the bar; a proceeding that had never yet been made the subject of comment in that House. It was, however, a proceeding that had given to every reflecting man in this country, cause for much sorrow and much regret. It must have grieved every individual who considered the subject, to see the Crown of England in such a situation—negotiating with a subject—treating with regard particular concessions—and these very matters entertained in parliament. But he hoped, at least, that nothing like a treaty, nothing like a compact, nothing like a protocol of what had been done between the House and the counsel at the bar, would be entered amongst their proceedings as a part of that grave, solemn, and judicial inquiry which now occupied their attention. He must, therefore, under a deep sense of duty, protest, for one, against being bound by this resolution. He, for one, would not consent to forbid the counsel at the bar to do that which he conscientiously thought they were perfectly competent to do; neither would he bind himself by the terms of that proposition, to act, in the course of these proceedings, in a manner which he could not pursue without betraying his duty. He would not consent to a motion which in any degree would prevent him from fol-

lowing that course which at a future moment he might deem necessary.—Having said this much with regard to the extraordinary proceeding which their lordships were called upon to adopt, he would now advert to all the difficulties with which the case seemed to be surrounded. He would say, agreeing entirely in the sentiments of his noble friend (earl Grey), that, navigating this sea unknown without a chart, it was impossible for them to steer clear of danger, let them take whatsoever course or direction they might; but he found this difficulty considerably augmented by the particular moment at which the matter was brought forward; and he would say, notwithstanding what had fallen from the noble earl opposite, that if any such interposition as that now before the House was thought necessary, with a view to the supposed interests of justice, it was incumbent on the House to have originated it before his majesty's solicitor-general had summed up the evidence on the other side. For what was the object of summing up by a counsel? Here, before he answered this question, he would observe, that his noble friend on the cross-bench (lord Lauderdale), the noble earl opposite (Liverpool), and the learned lord on the woolsack, who had insisted on this particular course of proceeding, and recommended it by their votes, had all of them, with feelings which it was impossible that minds like theirs would not experience, expressed their earnest wish, hope, and belief, that the evidence adduced at the bar would not be allowed to make an impression on their lordships minds. At the same time, the noble and learned lord, in justice and candour, found himself bound to admit, taking a proper view of human infirmity, that the publication of that evidence must produce a certain degree of impression. The learned lord viewed this circumstance as an evil, and expressed the greatest anxiety that the evidence should not be allowed so to operate; and yet, he would ask their lordships, what was the effect of the proceeding which was recommended? They had admitted the comments of the solicitor-general on the predetermination of adjourning the moment these comments were closed, which was described as the legal, the proper, and the natural mode of proceeding. But what was the wish of the learned solicitor-general in making these comments? His design evidently was, to give a bias to the case, to strengthen that impression which their lordships had deprecated, to point out those parts of the case that were strong, to pass over those that were weak, and to give that direction to the minds of those who heard his statements, which would lead to a conviction that the bill was fully supported by the evidence. Their lordships feeling the necessity of adjourning, and wishing to keep clear of any bias or impression, should have selected an earlier period for that purpose. But now, an adjournment was proposed when the solicitor-general had closed his case, which must produce a considerable effect during the period of adjournment. Their lordships had allowed the solicitor-general, who would have been as able to sum up at a future period as now—who might have made a statement without any danger of producing an undue bias on their lordships minds—they had permitted him to make all his comments on the evidence, for the express purpose of creating an impression, if it did not exist before; and having heard all that he had to say, having heard every thing that could aggravate the circumstances of the case, they exclaimed, "this is the proper moment for adjournment," before any observation whatever was made on the other side in consequence of those comments. This was the course which, to his utter astonishment, accustomed as he was to the great candour and sound judgment of the noble earl opposite, that he counselled them to pursue. This was what he termed the most equal balance of justice—this was the most proper moment, in his idea, for suspending proceedings in this case! It was an equality of balance coming to this —"Hear all the evidence on oath on one side—hear the comments on that evidence—hear every thing that can be brought together to make against that side of the case; and, at the very moment when the feeling intended to be raised is wrought up to the highest pitch, then declare that to be the best and the safest moment, in justice to both parties, for suspending the proceedings." They had said, that to suspend the proceedings at all would be to do an injustice; but, to alleviate that injustice as much as possible, they were told that a proper and convenient time would be selected, and the present moment was pointed out to them as that proper time, when the whole weight of evidence and the whole weight

of comment militated against one side! The inconvenience that might have been produced by adopting another line of conduct was nothing, when compared with the gross and palpable injustice of allowing all the evidence to come out, enforced by the reasonings of the solicitor-general, calculated as they were to create an unfavourable bias on the public mind. What did the noble earl think of the foundation on which his bill stood, when he feared so much for its ultimate success? It was supported by evidence on oath—it was sustained by the comments of the solicitor-general; and that which could be now alleged against it could amount only to a mere statement. But the noble earl seemed to think, notwithstanding the manner in which the bill had been supported, that if, unhappily, it were attacked by one day's comment on the other side, it would be defeated; and he called out, "that the permission to make those comments, even for a day, would be so grossly unjust, would be such an abandonment of all the principles of right and wrong, that it ought not to be conceded." He seemed to think that there would be an end of the case, and that no man, however sanguine his expectations might have been, could be sure of its success under these circumstances. The real balance of inconveniences was on the other side, and not on that where the noble earl seemed to suppose it was. It was undoubtedly a great evil, a great inconvenience, that a delay of any sort should take place; but that delay being the inevitable consequence of the course which their lordships had had the misfortune to pursue, and which the accused party had opposed—was it not most unfair to allow the case for the prosecution, the evidence in that case, and the comments on that evidence, to go forth to the public perhaps for two months uncontradicted? Was it not fair that a comment at least should go forth from the other side; not, indeed, supported by evidence, but which would point out to their lordships and to the public, in what respect the testimony for the prosecution was vulnerable? This was all that was proposed; and, looking to the great advantages possessed by the other side, he conceived that it ought to be granted.—The noble earl opposite had spoken of making an impression by means of the speech of counsel unsupported by evidence; but was it to be for a moment supposed that the learned counsel at the bar could so far forget the interests of their client, could so far forget the substantial interests of the cause, as to make a number of assertions which could not be supported by evidence, and which, if not supported by evidence, they must know might prove fatal to their case? On the contrary, if any difficulty presented itself to the course proposed by her majesty's counsel, it appeared to him to arise from an opposite cause; it arose from the course in which their lordships had proceeded, a course which left counsel unacquainted with time, place, and circumstances. The difficulty thus occasioned, he begged leave to tell their lordships, was much increased in the case of innocence; for consciousness of guilt could supply what their lordships had refused. With all the difficulties which arose from this cause, and with the necessity of counsel, as it were, feeling their way, it appeared to him that there was much greater danger that counsel would fall short, and make a statement more limited and more restrained than the case might warrant; because they must be aware, that asserting what they did not know could be supported by proof would prove injurious to the case they were advocating, and to the ultimate interests of their client. He freely admitted that if, after the examination for the defence should have commenced, any application should be made for delay, he felt more strongly perhaps than the noble lord near him the necessity of refusing such an application, because of the multitude of inconveniences arising from an interruption of a protracted examination in a long list of witnesses—an interruption of which the effect might be to bring forward witnesses to support what had failed in the testimony of witnesses previously examined. But with respect to the opening speech being made, and an interval then occurring before any witnesses should be called, no such objection could be made. He would ask the noble lord opposite, upon what ground they could be deceived by the counsel at the bar? The noble lord opposite could not suppose, no noble lord who knew the nature of the case and the character of the counsel at the bar could suppose, that the learned counsel could so stultify themselves, as it had been expressed, as to decline further and protracted cross-examinations of witnesses on the other side, and now, with all the dif-

ficulties which surrounded them, to propose to open the case for the defence, without some other advantage to compensate in some measure the disadvantages of an opening in such circumstances. What other advantage, then, could they propose in return for not availing themselves of a delay in cross-examining, than the advantage of guarding their client from the disadvantage of all this evidence going out to the world without one word of contradiction, or one word of comment on the part of the accused? They could have no view but that proper one of guarding the interests of their client, and of preventing all the evidence and arguments on the other side from going forth unaccompanied with any comment or contradiction. There could be no intention of making any impression on the minds of their lordships, or of the public, by unsupported statements; at least any permanent or beneficial impression could not be made for their client by statements unsupported by evidence on the other side. Their lordships would give him leave to say, that in a choice of difficulties, and in forming his resolution as to the decision he should come to, he could not exclude from his mind that their lordships, while they were not to be unmindful of the interests of the prosecution, ought to lean, if any leaning at all existed, to the accused. He could not exclude from his mind, that this was not the first time that her majesty was accused without means of defence; that this was the second time before their lordships that the accused was exposed to charges and accusations without any room for defence. Their lordships, while they determined on the course of proceeding on the present occasion, ought to call to their recollection, that the report of their secret committee was allowed to circulate for two months without affording any means of contradiction to the accused. This was a great disadvantage, to which the accused had before been exposed. And now it was contended, that for the second time, evidence should go forth against her for two months, and evidence supported upon oath, without what, in all other cases, accompanied such sworn and published accusations. He could not conceive how their lordships could consistently now decide that evidence upon oath, circulated among the people, should be left for months without any explanation, contradiction, or comment. On those views he should give his vote against the motion.

The Earl of *Carnarvon* allowed that their lordships were placed in circumstances of great difficulty, in consequence of their having refused to grant her majesty a list of the witnesses, and a specification of the charges to be preferred against her. Had that refusal not taken place, and had a proper time been allowed to the counsel for her majesty to prepare her defence, their lordships would have been enabled to proceed in a way analogous to the usual forms in all courts of justice. The unfortunate decision to which he alluded had been the fruitful parent of a multitude of evils. He was far, however, from thinking that those evils would be amended by adopting the course recommended by his noble friend who had just sat down. On the contrary, unjust and anomalous as in his opinion had been the refusal of their lordships to afford a list of witnesses, and a specification of the charges, it would be ten times more unjust and anomalous to permit the counsel against the bill to open the case for the defence, and then to defer calling the evidence by which the allegations of that case were to be substantiated. His noble friend had asked if their lordships were to enter into a capitulation with the counsel at the bar. Was not that what they were daily doing? With respect to this very circumstance of delay, had it not been already stated to their lordships by the counsel, that if their lordships agreed to the resolution for refusing a list of witnesses, and a specification of the times and places of alleged offence, two months delay must be afforded them for preparation, and had not their lordships, on their part, intimated to counsel, that if they did agree to the resolution they would concede that delay? That was a pledge which their lordships had given; counsel were now called upon to say, whether they would avail themselves of that pledge, or at once enter on the defence. He willingly allowed the inconvenience of any interruption whatever, and he admitted that their lordships were, with reference to their former proceeding, responsible for that inconvenience. But the question now was, by what mode to meet the inconveniencies of the case? Were those inconveniencies, emanating, as they did, from the very nature of the case—was the impression which it was apprehended would be made on their

lordships and the country, from the circulation of the evidence on oath, to be met by the circulation of assertions merely, on the other side of the question? Was it not probable—was it not certain—that if the counsel attempted to go into the defence now, that they must, (in consequence, perhaps, of that ignorance of which the refusal of their lordships to which he had already alluded, was certainly one cause), advance statements which would not be subsequently sustained by evidence? There was one point more which, if their lordships wished justice to be done to all parties, ought to make them pause. If their lordships had attended to what had already taken place in the course of the cross-examinations at their bar, they would perceive that the case of the counsel against the bill would go to involve all the witnesses for the bill in a charge of direct perjury, and to involve other persons, and those of high consideration, in the still worse charge of subornation of perjury. It would no doubt be stated by the counsel against the bill, that the whole proceeding was a foul conspiracy, and that the witnesses which had been produced at the bar were of an infamous and perjured description. Now, could their lordships, with justice to the witnesses, with justice to the persons he alluded to, permit such a statement to go forth and rankle for two or three months in the public mind? Unquestionably those individuals were entitled to be protected from such an evil. It was most important in all judicial proceedings, that when a charge had been made, the evidence to sustain it should be proceeded upon at once. If the opening speech of the counsel against the bill were allowed to be made, he would rather that even a part of the evidence should be produced, although the rest of it were to be deferred, than that the whole mass of libellous matter should be allowed to circulate without either proof or disproof. Such, he conceived, must be the wish of every man who did not desire

> "——— spargere voces,
> In vulgum ambiguas."

He was persuaded that their lordships would so guard their proceedings as not to allow them to be made the channel for such a purpose, and that they would not allow that to be addressed to them which, although it would not act prejudicially on their own minds, might be very operative in that respect elsewhere. He apologized for having so long trespassed on their lordships attention, but declared that he should not have felt that he had done his duty to the House and to the country, if he had not expressed his sentiments on the present most important question.

The *Lord Chancellor* begged to be allowed to state the view in which he conceived that there had been no compact, no stipulation, with the counsel. Their lordships had authorised him to put a question to the counsel at the bar. The answer to that question had not been given in the usual and ordinary way. When that was stated, and upon the principle from which he could never be removed, that a counsel, when he stated his case, was understood to be ready with his evidence, he conceived that the only question was, to open the defence then, or to ask delay. He had put the question to the counsel in a manner which he thought the most respectful to the House and to the counsel; and when the counsel said, that he was ready to open his defence, he was thereby understood to be ready with his proofs, and not merely to circulate statements, which, by the way, if delay intervened, might be put into the hands of witnesses. When he stated the ordinary mode of proceeding, he did not mean to shut out deviations which might be allowed in extraordinary cases. On special grounds, further time would be granted in the present case; but it must be implied that they were going on, unless the contrary was fully understood, on the ordinary grounds.

Lord *Calthorpe* said, that differing, as he did, on the present occasion, from many of his noble friends, he felt it necessary to state the ground of his opinions as shortly as he could. It appeared to him, that the arguments of the noble lord, forcible as they were, were founded on an analogy to the courts below. He did not mean to deprecate the authority of the courts; on the contrary, he believed, if there was any thing that commanded respect and confidence in this country, it was the administration of justice in those courts. Entertaining this opinion, it appeared to him that the House, as a court of judicature, should not deviate from the course of proceeding in the courts below, but on very strong grounds, though certainly the House had a right to act upon their own discretion. If there were any

proof more than another of the exercise of that discretion by the House, it was to be found in the extraordinary extent of cross-examination granted to the counsel for her majesty. Such a stretch of cross-examination would not be allowed in the inferior courts, and it appeared to him, that this indulgence was granted to counsel as an equivalent, for refusing to them a list of the witnesses produced against their illustrious client. Considering how sparingly counsel had availed themselves of the power thus given to them, it appeared to him, that the House could not withhold the further indulgence which they asked for, at the same time the indulgence asked for was of so peculiar a nature, and the benefit to be conferred so extensive, that if granted, it should be recorded on their Journals, so that it might not be considered as a precedent for the future. He could not sit down without observing, on an argument of the noble earl opposite (Liverpool); that noble earl had argued, that her majesty would be placed under much greater disadvantage than she now laboured under, if she were tried by way of impeachment; but he would say, that if this were a trial by impeachment, the House would not find itself in the present difficulty, nor would her majesty have to contend with the present disadvantage. He thought the disadvantage under which her majesty laboured was a strong argument indeed in favour of the indulgence which she sought; and entertaining, as he did, a high opinion of her majesty's counsel, he was sure that that learned and honourable person would not compromise his high character by abusing their indulgence; he was sure that he would not, as an advocate for the Queen, forget what he owed to the public justice of the country. He believed that if that learned person received this indulgence from the House, he would consider it as an important trust committed to his hands by their lordships, and that he would feel himself responsible for the execution of that trust, not to her majesty merely but to the House and to the public. The noble lord said, he was persuaded that the attainment of justice was the object of their lordships; he hoped, therefore, that they would, on this occasion exercise their discretion; convinced he was, that they would best promote the cause of public justice by granting the indulgence sought for.

Lord *Redesdale* lamented that the present proceeding had taken place at all. He had considered the subject with much anxiety and with the utmost attention, and the result of his observations went to convince him that the best mode of proceeding would have been by impeachment. He founded that opinion on the highest authority, on the authority of a great man, lord Somers, who had been the principal instrument of bringing about the Revolution of 1688. In a trial by impeachment, they had nothing to do but to lay down the law, and to declare what the law was —their judgment would be the judgment of the law itself; but he did not see that they had a right to make a law to meet a particular case. It was, in his opinion, going directly contrary to ancient statutes and established usage. With respect to refusing a list of witnesses, so much complained of, he did not see how it was at all possible to furnish such a list; and as to the extraordinary course which their lordships were now called upon to take, he was of opinion that such a course was impracticable and would be most mischievous. They were called upon to allow counsel, who stood not at all responsible for his statement, to make whatever statement he might think fit, and to leave it for a length of time under the public eye, unanswered and unrefuted. As to what had been said to show that the adjournment ought to have taken place, if at all, before the solicitor-general summed up the evidence, he would ask, what did the statement of that learned person amount to? To nothing more than the recapitulation of the evidence. The case would be quite different with respect to the statement of counsel for the Queen. There was no balance between the two cases—one predominated greatly above the other.

The Earl of *Darnley* thought himself bound to make a few observations in the conscientious discharge of that most difficult and painful duty which, in common with all their lordships, he had to perform. He must confess he could attach but little importance to what had been said by his noble friend (the earl of Carnarvon) respecting the inconvenience that would result if they allowed counsel to proceed at present with a statement of the defence, which would necessarily produce considerable influence on the public mind. That consideration was unquestionably an objection to what had been said by his

noble friend (the marquis of Lansdown); but still, weighing the inconveniences on both sides with that impartiality which all their lordships must be desirous to evince to both parties, he, on such a balance, was inclined to give the indulgence asked by her majesty's counsel. If he understood aright the proposition of the noble and learned lord on the woolsack, it was, to give one of two alternatives to counsel—either to make them proceed now, not only to state the case for the defence, but also to adduce all the evidence; or to grant at present such delay as might be necessary or expedient, and after that to go on with his case. With the opinions he held, he could not consent to such a proposition; for if counsel preferred going on immediately to allowing the interposition of any delay, he should say, considering this not as a case likely to form a precedent in future, and acting on the fair analogy of their lordships former proceedings, that if counsel were now compelled to proceed and call all their evidence, the House could not deny them such a delay as they might require to bring forward other evidence, which the difficulties of their situation might at present prevent them from procuring. The noble earl opposite, when he adopted a different line of argument, appeared to have forgotten the admissions which he himself had made on a former occasion, in suffering counsel to break the cross-examinations, and resume them again at any future period that they might choose. On every principle of analogy, therefore, he thought they were bound to allow the evidence for the defence to be divided, as they had formerly allowed the division of the cross-examinations, on a fair case being stated to the House; and, with this impression on his mind, he could not vote for the motion of the noble and learned lord. Several noble lords had spoken of the impossibility of carrying on the proceedings in any other than the present manner; but he contended, that all the evils and all the difficulties in which they were now involved might have been avoided, and that they had brought them on themselves, not only by the vicious course of proceeding to which they had resorted, but by instituting any proceedings at all. Their lordships now saw the evils with which they were surrounded; and he should always state, when an opportunity occurred, that they had voluntarily brought this mischief on themselves, and that the whole might have been, and ought to have been avoided, for they were not called upon to commence any proceeding whatever. The only consequence that had as yet resulted from this proceeding was, that their lordships and the country had had an absolute surfeit of filthy disclosures, without any good whatever being done. In the unfortunate situation in which the House was placed, the only consolation to him, and to those with whom he had the honour of acting, was, that they had given their decided, though unavailing opposition to the whole course of proceeding.

The House then divided: Contents, 165; Not-contents, 60. Majority for the resolution, 105.

List of the Minority.

Duke of Glocester	Rosebery
Somerset	Besborough
Grafton	Darnley
St. Alban's	Caledon
Bedford	Blesinton
Devonshire	Visc. Bolingbroke
Hamilton	Torrington
Argyll	Hood
Leinster	Gage
Marq. of Lansdown	Anson
Downshire	Duncan
Earl of Derby	Clifden
Suffolk	Downe
Thanet	Lord De Clifford
Essex	Saye & Sele
Jersey	Ducie
Albemarle	King
Cowper	Holland
Stanhope	Belhaven
Oxford	Kenyon
Fitzwilliam	Bolton
Darlington	Foley
Stair	Alvanley
Grosvenor	Calthorpe
Romney	Dundas
Fortescue	Erskine
Breadalbane	Hawke
Rosslyn	Gwydir
Grey	Yarborough
Minto	Auckland

The Counsel were again called in.

The *Lord Chancellor*.—The House has commanded me to inform the Counsel for her Majesty, That if they think proper now to proceed to state the Case of her majesty, and mean to produce Evidence, they must proceed at the close of the statement of the case to produce the whole evidence intended to be adduced, such being the usual course of proceeding; but that the House are willing to adjourn for such reasonable time as the counsel for her majesty may propose, in order that when

they begin their statement, they may be able to proceed in producing their proof at the close of it. Will you communicate to the House what you propose to do in consequence of that?

Mr. *Brougham.*—My lords; if by stating the case on behalf of her majesty is meant opening the evidence which her majesty may have to adduce in her behalf, should she be advised to adduce evidence at all—then, my lords, I have humbly to submit to your lordships, that should her majesty be advised to adduce evidence at all, I have no wish whatever, on behalf of her majesty to state the case, in that sense of the word; that is to say, to expound even one tittle of that evidence, until a certain reasonable delay shall have been granted by your lordships; but if your lordships will allow me, on behalf of her majesty, to make another application, I would humbly submit to your lordships our claim upon the justice and indulgence of the House, to be allowed in this present stage of the proceedings, that is to say, at what hour to-morrow your lordships may think fit to appoint, to be heard to comment upon the case already made out on the other side; binding myself in the course of that comment, not to offer to your lordships one single word describing or in any way opening or even alluding to the particulars of any statement of evidence which we may hereafter, after having made our comments on the case made out on the other side, advise her majesty to bring forward upon her part. I trust I have made myself understood by your lordships.

The Counsel were directed to withdraw.

The *Lord Chancellor* said, that if he rightly understood the application of the learned counsel, it was, that he might be permitted, to-morrow, to comment on the evidence in support of the bill without going any further into a statement of the defence. He considered comments on the evidence for the prosecution to be, in the strictest sense, a part of the statement of the defendant's case; and as such he was of opinion that this application could not be granted consistently with the decision to which their lordships had come on that point. Justice to the witnesses required that the value of their evidence should be estimated, not by the comments of counsel, but by evidence adduced on the other side.

Lord *Erskine* asked, if they refused the present application for the reason assigned by the noble and learned lord on the woolsack, why they had permitted the king's solicitor-general to sum up the evidence for the prosecution and to comment upon it? Why had not their lordships allowed that evidence to go forth without such comments? and then, after a reasonable time had been granted, they might have ordered the counsel for the bill to sum up, and her majetsy's counsel would immediately have followed with a statement of the defence. Reflecting on what had taken place, he could not possibly conceive, on what principle of justice their lordships could prohibit her majesty's attorney general, since he was not yet prepared to bring forward the evidence for the defence, to comment on the testimony on the other side, which had been allowed to go abroad with the comments of the counsel for the Crown. It might be said, that such a course was unusual, but that was no argument against the application of the learned counsel, because the whole proceeding was unparalleled, and without precedent. He should therefore move, "That counsel be called in, and told, that to-morrow her Majesty's Attorney-General would be allowed to comment on the evidence adduced in support of the bill without entering into any statement of the case for the Defence."

The House divided on lord Erskine's motion: Contents, 49; Not-contents, 170. Majority, 121.

The Counsel were again called in.

The *Lord Chancellor.*—I am commanded by the House to inform you of her majesty's counsel, that you will not be allowed to comment to-morrow on the evidence adduced in support of the bill—

Mr. *Brougham.*—Without going on?

The *Lord Chancellor.*—Without going on. Have you any thing to propose in consequence of that?

Mr. *Brougham.*—My lords; placed in this new and unprecedented situation, I entreat your lordships to allow us till to-morrow to form our opinions, and finally come to a resolution of peculiar importance in the management of this case.

The *Lord Chancellor.*—At what time would you wish to-morrow?

Mr. *Brougham.*—At whatever time most suits the convenience of your lordships.

The *Lord Chancellor.*—Your lordships have placed the counsel in that very si-

tuation which is the situation of counsel in all proceedings in all courts. I apprehend, however, you will undoubtedly feel it perfectly reasonable to accede to his request.—I am authorized, Mr. Brougham, to state to you, that the House will receive your answer at ten o'clock to-morrow morning.

The Counsel were directed to withdraw, and the House adjourned.

HOUSE OF LORDS.

Saturday, September 9.

The order of the day being read for the further consideration and second reading of the bill, intituled "An Act to deprive her majesty Caroline Amelia Elizabeth of the title, prerogatives, rights, privileges, and exemptions of Queen Consort of this realm, and to dissolve the marriage between his majesty and the said Caroline Amelia Elizabeth;" and for hearing Counsel for and against the same; the Counsel were accordingly called in.

The *Lord Chancellor*.—The House is desirous to know from you of counsel for the Queen, what course you wish to pursue.

Mr. *Brougham*.—My lords; her majesty's counsel deemed it their duty, before answering the question of which they had notice yesterday, to wait upon her majesty last night, which they all did, with the exception of my learned friend, Mr. Williams, who concurs with us, however, in opinion, and who is gone upon professional duty to York.—We communicated to her majesty the decision which your lordship communicated to us at the bar yesterday; namely, that your lordships would not permit us to be heard at present to comment upon the case as made out against the Queen. We have received her majesty's commands to inform your lordships, that we shall be ready to proceed, as speedily as possible, to answer the case made out for the bill, and to tender that in defence of her majesty; but as this will require a few days preparation among the professional gentlemen entrusted with her majesty's defence in the different branches of the profession, we have, on her majesty's part, to beg your lordships to have the goodness to grant us that short delay. Her majesty's anxiety to proceed continues unabated: it is rather, as your lordships may perhaps expect, increased, by some of the parts of the case against her; and, yielding to that very natural, and I should humbly take leave to add, that praiseworthy feeling in her situation, the Queen, is desirous that the delay may be as short as possible. I rather exceed than fall short of the limits which her majesty wishes to put to that delay, when I ask your lordships to allow us to somewhere at or about Monday fortnight for that purpose.

The Counsel were directed to withdraw.

The Earl of *Liverpool* stated, that whenever it was determined to enter upon the defence, the time ought to be such, as, in the opinion of the parties who had to make it, afforded them an ample opportunity for every full and necessary preparation. That time, however, ought to be left solely and entirely to the discretion of the counsel of her majesty the Queen. No personal consideration whatever ought to influence their lordships in the progress of the cause. Whatever time her majesty thought necessary to prepare her defence ought to be allowed, without reference to any consideration for the time which their lordships were under the necessity of devoting to the consideration of the subject.

The Earl of *Darnley* perfectly concurred in the propriety of what had fallen from the noble earl on the subject of awaiting the time required by her majesty's counsel to prepare her defence; but he understood the learned counsel, when he named Monday fortnight, to allude indefinitely to the time. Now, would it not be proper the learned counsel should state at once a definitive period? Let a day be fixed when all the preparations could be arranged, and let it be as distant as they pleased, rather than prematurely immediate. He agreed that no day ought to be named which the learned counsel did not deem perfectly convenient and suitable. Their lordships were bound not to attend to their own personal convenience; but still he thought a positive day ought to be fixed.

Earl *Grey* entirely agreed in what had fallen from the noble lords who preceded him, that they were bound primarily to consider the convenience of her majesty the Queen. He hoped, however, that it would not be deemed indecorous for him also to put in some minor claim in behalf of the convenience of their lordships. It was quite impossible that their lordships should not feel much inconvenience by an absence from their families at this period of the year. For himself, he attended at

the greatest possible personal inconvenience; but he could never, on that account, neglect his public duty. What he rose to suggest at present was, indeed, of a similar nature to that which had been so properly put by his noble friend; namely, that a definitive day should now be mentioned for entering upon the Queen's defence. If Monday fortnight were not likely to be positively sufficient, he trusted their lordships would be allowed a much more remote day. After so long an absence from their private business, and indeed also after such an interruption of the other public business of the country, the time now fixed upon ought to be such as would enable their lordships to see when they might ultimately have a prospect of attending to their own personal affairs, or else that opportunity should be now afforded them before they entered further into the present business. He hoped, therefore that Monday fortnight would be peremptorily fixed, or that a more distant day would be decided upon; as the interval proposed was too short to allow him and others, whose residence was at a great distance from town, any opportunity of attending to their private affairs in the country.

The Earl of *Liverpool* concurred fully with the noble earl; but their lordships must still bear in mind, that their proceeding in this stage of the business ought to be entirely governed by the convenience of her majesty and her counsel. The idea of personal convenience to themselves their lordships were bound to banish from their minds, though he was not insensible how severely this duty must necessarily press upon their lordships. Independently of the convenience of the Queen, there was one person whose convenience he thought their lordships were bound to consult, namely, the noble and learned lord who sat on the woolsack. The situation of that distinguished person was such as to impose upon him public duties which could hardly be said to give him any repose. His duties did not, like those of other judges, give him leisure when his court was up; for he had, even in whatever momentary retirement he could snatch, to toil over the business of his official situation. If no personal convenience were sought after by her majesty's counsel, most certainly none ought to be looked for even by the noble and learned lord on the woolsack; but if any convenience could be looked for after that of the Queen, he thought it ought to be that of his noble and learned friend, at his period of life, and considering his pressing and most harassing avocations.

The *Lord Chancellor* expresssed his gratitude for the disposition manifested towards him, but he felt it to be his duty to state, that no personal consideration should be suffered to weigh with him for a moment in a matter of this sort. He should be ready at the earliest period that would suit their lordships, to discharge, to the best of his power, the most painful duty that devolved upon him on this occasion. He could not but feel uneasiness under any circumstances, when contemplating the business before their lordships, but that uneasiness would be augmented; if any delay in the proceedings were suffered to take place on his account.

The Earl of *Lauderdale* thought, that, on an occasion like the present, it was his duty to forget all considerations of his own private or personal convenience. He was confident their lordships participated in this feeling. He wished the counsel at the bar to state whether it would suit them that the period fixed for the re-assembling of the House should rather exceed than fall short of the time that had been named.

Earl *Grey* suggested, that her majesty's counsel should be called in and asked, whether they would be ready to proceed on Monday fortnight, without inconvenience or detriment to her majesty's interests.

The Earl of *Harrowby* remarked, that the Queen's counsel had asked for time till at or about Monday fortnight. Their lordships ought to know precisely on what day her majesty's legal advisers would certainly be ready to proceed with the defence. From their having proposed that the trial should be resumed at or about Monday fortnight, he was led to think they considered it probable that they might be ready to proceed on that day, but not quite certain. In case they were not quite certain that they should be ready on that day, it might be for the convenience of the House that the period of their re-assembling should be fixed for a few days later, so that they might be absolutely certain of going on with the defence when they at length met. He did not say that it might be necessary to add a week to the delay called for, but perhaps it would be advisable to name some intermediate day.

Earl *Grey* begged to move their lordships, that her majesty's counsel should be called in, and asked if they could state that they should be prepared to proceed on Monday fortnight.

The Earl of *Liverpool* thought they ought to take up the learned counsel's own words, and ask, in the first instance, what had been meant by "at or about Monday fortnight?" He recommended that this question should be forthwith put, as this phrase "at or about" rather appeared to mean more than less than a fortnight.

The Counsel were again called in.

The *Lord Chancellor*.—Mr. Brougham; you are understood to have used the words "at or about Monday fortnight." You are desired to explain what you mean by the words "at or about Monday fortnight."

Mr. *Brougham*.—If your lordships will give me leave, I will say this—We were very unwilling to take upon ourselves to fix, as it were, the precise day; wishing to yield ourselves, as far as we could consistently with our duty to our client, to the convenience of your lordships; which would be always the more a rule to us, the more your lordships desired to consult our convenience. But, my lords, I have no objection now to state to your lordships, that although her majesty is very anxious, from motives which I think will be duly appreciated by your lordships, to proceed at the very earliest day, I will take upon myself to say, as her law adviser, in which I believe I have the concurrence of all my learned friends near me, and of that most respectable person, Mr. Vizard, who is her solicitor, and whose information upon a question of this sort your lordships know is almost of more importance than that of any other person, considering the branch of the case which is entrusted to him—I will take upon myself, after such advice and information, humbly to submit to your lordships, that Monday three weeks, the second of October, would be that which would be suitable, if it should be found consistent with the convenience of your lordships.

Earl *Grey* said, that the period mentioned by the counsel for the Queen was so very inconvenient to him, that he feared, from the nature of his private engagements, he should be under the necessity of applying to the House for leave of absence upon that occasion.

Lord *Melville* could not but think that the period of three weeks was as inconvenient a term as possibly could be. He really hoped that if the House were disposed to grant such delay, they would grant a period something longer.

Lord *Erskine*.—My lords, I hope that my noble friend who sits by me, will reconsider the application which he has just made to your lordships, because it would be most painful to me to resist it, which I should feel myself bound to do. I cannot state in his presence the value I put upon his attendance on all occasions in this House, and even if he were absent it would be unnecessary, as it must be equally felt by every one of your lordships. I hope it will not be considered as any breach of that friendship I have so long felt for him, if I should divide the House, if any such motion should be made.

The Earl of *Liverpool* conceived, that, after what had been stated by the counsel for her majesty the Queen, he could not think her anxiety ought to cede to the convenience of any noble lord.

The Earl of *Darlington* was satisfied that nothing more inconvenient than the adjourning for the period of three weeks could have been proposed to the House; and, if their lordships at all consulted their own convenience, the motion would never be assented to. It would be recollected by their lordships, that when the counsel for her majesty was asked by the House, after the solicitor general had concluded, when he should be ready to proceed with his defence, he replied "forthwith." It was therefore most extraordinary that her majesty's counsel should have altered their course so suddenly.

The Earl of *Liverpool* could not agree with the noble lord who spoke last, in the view he took of the subject. He understood that the sole purpose for which the House this morning met, was to consider what delay the counsel for the Queen should require. When Mr. Brougham said, that he wished the House to meet again "at or about a fortnight," from the present time, he understood him to mean that that was the shortest possible time, on account of the Queen, that her defence could be proceeded in. But on consulting with her other legal advisers, and above all with her respectable solicitor, he was of opinion that three weeks was a period, at the expiration of which he was more certain of being able to pro-

ceed without interruption; as such, his lordship said, he should consider three weeks the period now fixed.

Lord *Falmouth* said, that residing as he did at a great distance from London, and having business which made it very material to him individually that he should be in the country at the period which had been last mentioned by the learned counsel for her majesty, he nevertheless entirely concurred with the sentiments expressed by the noble lord at the head of the Treasury, as to think that all private business should yield to the convenience and the claim of her majesty, as stated by her counsel at the bar. When he said this, however, he felt desirous of expressing the earnest hope he entertained, that the learned counsel would not ask for further time, after the period in question should expire, without a good and satisfactory reason. He did not mean to say that such a reason might not arise, but he thought that it would be most vexatious to noble lords who, like himself, might reside at a distance from London, if after having, from their sense of paramount duty, so readily assented to the request of the learned counsel for a delay of three weeks, perhaps the most convenient one to them that could have been proposed, they should find the defence was not then to proceed. He therefore did hope it was to be thoroughly and clearly understood, that, without some satisfactory and conclusive reason, and one which could not now be foreseen, no further delay in proceeding upon the defence of her majesty was to be proposed.

Lord *Rolle* said, that after counsel had at first mentioned a fortnight, he was rather surprised to hear them ask for three weeks.

The Duke of *Athol* said, that the question of the time of re-assembling lay entirely with her majesty's counsel. The House merely wanted to know the day to which they thought it necessary the defence should be postponed. It was of no consequence where a noble lord resided, whether in Middlesex or Aberdeen; it would be his duty to attend on that day. At present an adjournment of three weeks was proposed; an interval which he hoped would enable noble lords to refresh themselves after the fatiguing business they had gone through. But after sitting so long as they had done, and enduring no common portion of trouble and fatigue in getting through one side of the case—he thought the counsel should be required peremptorily to declare on what day certain they would be ready to proceed with the defence.

The Counsel were again called in.

The *Lord Chancellor*.—The House understand that you are assured you will be able to proceed on Tuesday three weeks.

Mr. *Brougham*.—Without any doubt, my lords. I fixed the very latest date I dared. It gives me great uneasiness to fix this day, or to ask your lordships to fix this day, on more accounts than one. It is extremely inconvenient to all the learned counsel, for it is the first day of the sittings at Guildhall, but we cannot help it. It is we who have fixed it—not the Queen.

The Counsel were directed to withdraw.

The Lord Chancellor then put the question, and it was ordered, that the House do adjourn to Tuesday, the 3rd day of October next.

The Counsel were again called in.

The *Lord Chancellor*.—Before the counsel leave the bar, I wish to ask again, whether there is any objection, on the part of the counsel on either side, to the examining lord Frederick Montague, who is abroad, and who is named as a witness for her Majesty, in some manner by commission, that her majesty may have the benefit of that evidence without his lordship coming here; which I understand he is incapable of doing.

The Earl of *Liverpool*.—I trust your lordships will seriously consider this, before it is determined that such a proceeding should take place in a case of a penal character. I should humbly submit to the learned counsel themselves, that it is very desirable that no such application should be pressed. I have no divided opinion upon it, as a matter of law: I wish to hear the opinion of others; but I cannot help saying I have a very strong feeling.

The *Lord Chancellor*.—I thought it my duty to mention to your lordships, that such an application had been made. It cannot be assented to, unless it is consented to on both sides—whether, with the consent of the counsel at the bar, it should be assented to is a matter for your lordships.—Mr. Attorney General, there are two witnesses who have been named to attend on the part of her majesty, lord

Frederick Montague and Mr. William Burrell It is stated to the House, that from the state of their health, it will be impossible for them personally to attend. Do you consent or object to an examination out of the House?

Mr. Attorney General.—My lords; I feel myself placed in a very delicate situation, in consequence of the application which your lordships have just made to me. I am directed by your lordships to produce the evidence at your lordships' bar. I therefore must confess that I hardly feel myself authorized to give a consent to this application. If it shall seem to your lordships meet, under the circumstances—if it shall appear to your lordships, that this is an application that ought to be granted—under those circumstances, I shall be bound to give it: but I apprehend it is rather for your lordships to consider, whether the circumstances are such as to induce you to take this extraordinary mode of proceeding, to examine witnesses by a commission abroad, and not to have their depositions *vivâ voce* at your lordships' bar.

The *Lord Chancellor.*—It appears to me, my lords, that is all the answer the attorney-general can be expected to give. He is directed to produce the witnesses at your lordships bar; and it must be for your lordships to decide whether you will depart from the usual course.

The Counsel was directed to withdraw.

Lord *Holland* thought no such commission should be granted, unless it could be justified by some analogy in the practice of the courts below in criminal cases. He doubted much whether any such analogy could be shown.

The Earl of *Rosslyn* observed, that the observations which had last fallen from the attorney-general, placed the question in quite a new situation. It appeared from what he had said, that he considered himself as no party in the case, but as the servant of the House, thus making their lordships the parties prosecutors to the bill. If the granting of the commission, therefore, were to be a question depending on the consent of the parties, the House would, in fact, be the parties, and be thus both parties and judges. He trusted the House would take care how they involved themselves in any such anomalous proceeding.

The *Lord Chancellor.*—I mentioned to your lordships the other day, when I took notice of this matter, that there were instances—which undoubtedly there are in civil cases—of a reference of this sort being had by consent of parties to examine witnesses by commission. With respect to criminal proceedings, my lords, I am not stating to your lordships that upon which I can much rely, when I state, that I know of no instance; because I have not been much concerned, either as counsel or judge, in such proceedings. There may possibly have been, in some instances, by consent of parties, such examinations, but if there have been, I believe them to have been extremely rare. Your lordships will recollect, that with a view of enabling you to do justice, as well as justice could be done, with reference to witnesses who were abroad, that by act of parliament this was directed in the case of the India Bill; but that, I apprehend, proceeded on a feeling of the necessity of the case; and there is one circumstance in a criminal proceeding, which undoubtedly is of great importance; and that is this, that as the court has a right, and it is the duty of the court, to inform itself by the examination of witnesses who have been examined on the one part or the other, it is impossible that the Court can have the opportunity of doing justice so satisfactorily, unless the witnesses are present.

Lord *Redesdale* said, there was an act of parliament which authorised the taking of depositions by judges in the colonies, who were empowered to put questions to the deponent for the purpose of eliciting the truth; so absolutely necessary did it appear to the legislature, that the witness should be personally examined. If their lordships were to be guided by the principles of that act, it would be necessary to have a knowledge of the facts to be deposed to, in order that the questions might be prepared which the judge should put to the witness.

The application, so far as respected Mr. William Burrell, was withdrawn.—It was intimated by the lord chancellor, that their lordships would, in future, adjourn at four o'clock each day.

Ordered, That the further consideration and second reading of the said Bill be adjourned to Tuesday the 3rd of October.

HOUSE OF COMMONS.

Monday, September 18.

Bill of Pains and Penalties against Her Majesty.] The Chancel-

lor of the Exchequer moved, "That a Committee be appointed, to inspect the Journals of the House of Lords, with relation to the present state of any Proceedings had respecting the Bill intituled 'An Act 'to deprive Her Majesty Caroline Amelia 'Elizabeth of the Title, Prerogatives, 'Rights, Privileges, and Exemptions of 'Queen Consort of this Realm, and to 'dissolve the Marriage between His Ma-'jesty and the said Caroline Amelia Eliza-'beth;' and to make report thereof to the House."

Mr. Serjeant *Onslow* observed, that, after all that had passed upon this subject, after the strong expressions used in debate regarding the nature of the pending proceeding, and the opinions so industriously circulated in all quarters, it was fit, for the honour and character of the House, as well as for the satisfaction of the country, that the inquiry should be conducted with the utmost possible solemnity. He submitted, therefore, whether it might not be expedient that a bill should be brought in, to enable the House of Commons to examine witnesses upon oath. He did not himself feel authorized to propose such a bill: a man so private and unknown as he was, could scarcely hope to have influence enough to carry it through; but he trusted that the executive government would take the subject into consideration.

Mr. *Creevey* said, he was in doubt whether he rightly understood the hon. and learned gentleman. Within the last few days, reports had been circulated of an intended motion, on the part of persons who were to be looked upon as the prosecutors of the Queen, to induce the House to renounce the right it now enjoyed, and had always possessed since it had been a House of Commons, of examining witnesses at the bar. He was not sure, therefore, whether what the hon. and learned gentleman had proposed was not intended to sound the country on the subject, and whether the suggestion had not been made with the privity of ministers. [Mr. Serjeant Onslow said, across the floor, "On my honour, no."] He did not say that such was the design of the hon. and learned gentleman, but it might have that effect. If such a rumour were true, and if, after having degraded the King, the Queen, and the other House of Parliament, ministers proceeded to deprive the House of Commons of its undoubted and most valuable privilege of examining witnesses, the degradation would indeed be complete. Then, indeed, would such a motion, if carried, operate as a proclamation for parliamentary reform; for what could the people think of a House of Commons, which, after for ages requiring that evidence should be given at the bar in every paltry divorce cause, even after verdicts and other proceedings in courts below, consented, in this greatest of all divorce causes, that no witnesses should be openly adduced? The more speedy the steps taken to pass here the odious measure now before the peers, the more rapidly and irrecoverably would the House of Commons become an object of endless derision and boundless contempt with the nation.

Mr. Serjeant *Onslow*, in explanation, said, that he had been misapprehended. He perfectly agreed with the hon. gentleman, that were the House to forego its privilege of examining witnesses at the bar, in such a case as that in question, it would degrade itself for ever. He declared upon his honour, that he had never had any communication with his majesty's ministers, or with any other person, on the subject of the proposition, which he had ventured to suggest to the House, and which proposition, so far from being any abandonment of the privileges of the House, as to the examination of witnesses, was to enable the House to examine witnesses on oath.

Mr. *Bernal*, in the present stage of the proceedings, protested against any extension of the jurisdiction of the House of Commons. It would be to him a subject of the most solemn regret to see the power of examining witnesses on oath assumed by that House. Nothing could be more dangerous to the liberty of the subject, than to invest that House with any such inquisitorial authority. If such a proposition should actually be made, he did hope, therefore, that the hon. and learned member would, on consideration, vote against its reception, on the ground of its tyrannical and dangerous character.

Mr. *Hobhouse* said, he would not be deterred by the reflection that the subject might have fallen into abler hands, from saying a few words upon it. When he considered the fresh and increasing difficulties in which the House and the country were involved, he certainly had looked round with a hope that some hon. gentleman of more importance than himself,

would have risen to endeavour to stop *in limine* the proposition made by the right hon. the chancellor of the exchequer, namely, to inquire what the other House of Parliament had done with reference to a proceeding, of which that House of Parliament (the House of Commons) had expressed its decided disapprobation, when it designated it as a proceeding derogatory to the Crown, and injurious to the best interests of the empire. It was evident by what motion the present one was to be followed up. The right hon. gentleman, as soon as the report of the proposed committee should arrive, would, no doubt, immediately move an adjournment. It appeared to him, that although the King might, in his opinion, very advantageously to the country, prorogue parliament, yet, if parliament were to be made to adjourn from day to day at the will of ministers, to the great inconvenience of the members, and for no object whatever of public good, those who sat on his side of the House had better retire, and leave all the odium of the proceedings in progress and in contemplation, on the shoulders of the hon. gentlemen opposite. He particularly objected to the motion made by the right hon. gentleman to search the Lords' Journals, because the adoption of it would be, to record the opinion of the House of Commons, that what the House of Lords were doing was correct, and for the advantage of the country. His solemn opinion was, that so far were the late proceedings of the House of Lords from being advantageous to the country, that they were fraught with the most pernicious consequences—consequences, disgraceful to the honour, and destructive of the best interests of the nation. He could, therefore, by no means consent to any proposition which would even imply the approbation of the House of Commons of the proceedings of the House of Lords. Aware, as he was, that the forms of the House would not allow of any allusion to what was taking place elsewhere, yet, as those forms had been somewhat relaxed during the last discussion on this subject, he might, perhaps, be permitted briefly to advert to what had recently been doing in the House of Lords. With all proper respect, then, for the House of Lords, he must say, that he did not think the House of Commons owed them any deference, when they found the House of Lords acting in express contradiction to themselves (the House of Commons). The House of Lords were proceeding with an inquiry which the House of Commons had rejected. The House of Lords had examined the filthy contents of the green bag, which the House of Commons, with disgust and scorn, had left unopened upon its table. Why, then, were their Journals to be looked into? Why were the Commons of England to regulate their conduct by following any steps which the Lords had disgraced themselves by taking? For one, he was astonished that any man of common sense and common knowledge could suppose for a moment that the bill of Pains and Penalties would be treated with any thing like impartiality in the House of Lords. He did not mean that the peers were worse than common men, but he did maintain that they were not better than common men, and that they must be influenced by those feelings in which all human beings participated. When they saw honour and advancement on the one side, and neglect and disgrace on the other, there could be no doubt which they must prefer. How fallible they were—how liable to the imperfections and frailties of humanity—was sufficiently established by their divisions. What had been the divisions in the House of Lords? Was it not——

The *Speaker* interposed, and called the hon. gentleman to order. Some allusion, in such a case as the present, might, perhaps, be allowable, to what might have occurred in the other House of Parliament; but he put it to the good sense of the honourable gentleman, whether to enter into such details, as to the divisions which had taken place there, was not an infringement, not merely of the form, but of the substance of the rules of the House of Commons?

Mr. *Hobhouse* disclaimed any wish to violate the rules of parliament. He had thought himself justified in making the allusions which he had done on the present occasion. He meant to refer merely to what was perfectly notorious.

Mr. *Calcraft* conceived, that if the hon. gentleman confined himself to a statement of the divisions he would be in order, as the House of Commons, having access to the Journals of the House of Lords, had a right to be informed on that subject.

Mr. *Hobhouse* proceeded. He had considered himself justified in alluding to what was not only notorious, but to what in fact had become matter of record in a

court of justice. The House of Lords was now acting rather in a judicial than in a legislative capacity; but he was willing to abstain, and to omit the observation he was about to make. His own impression —and he believed that in it he was by no means singular—was, that there was not the slightest chance of impartiality in the decision of the Lords. If so, was it not the duty of every honest man, of every member of parliament, to do his utmost to suppress this bill *in limine*? and with this view, on the former adjournment, he had seconded the motion of a noble lord. The same reasons still induced him to object to all farther proceeding in this measure in the other House of Parliament, and it seemed to him impossible that the nation, the King, or the illustrious party accused, could be benefitted by its farther prosecution. As to the nation, it had most unequivocally and decidedly pronounced its judgment against the bill. It was said, however, that the popular feeling was not deep—that the motion was only on the surface—and that it had been excited merely by those who were in the habit of rousing the popular feelings of the multitude. But might not the same answer be made upon every occasion where the national voice was raised? Was it not an excuse ready at all times to act in direct contradiction to the wishes of the country? But the motion was not on the surface; the feeling was deep and intense, and it sprang from a love of justice and a hatred of oppression; from sentiments that had always distinguished and done honour to the inhabitants of these kingdoms, and which it was the duty and interest of the government rather to cherish than to destroy. Next, could the King (if his name might be mentioned) be benefitted by perseverance in this measure? Unquestionably not: for it was now said, that the bill was not for the relief of his majesty, since only that part of it would pass which degraded the Queen, and not that part by which she was to be divorced. What, then, could be its possible object? Suppose the right hon. gentlemen opposite should be cursed with the accomplishment of their desires in this respect, in what situation would the illustrious parties be placed? The only result could be, that the Queen would be proved to be a strumpet, and the King—what he would not mention in that House! [Cheers]. Who, then, would be the gainers? for even ministers themselves must be severe sufferers? Had the noble lord and his colleagues taken into consideration what must, in any case, be the event? Would they ever be able, with all their army, to carry their bill into execution? If they consulted the opinions and feelings of the lower orders, whom they were so much in the habit of despising, they would find that it would be impossible. But if, as the prime minister had stated, one part of the measure was to be rejected, why not throw it out altogether? Why was one clause to be kept for the sole purpose of degrading the King, the parliament, and the country, under pretence (and pretence only) of degrading the Queen? In God's name, therefore, let a stop be put to all such ruinous proceedings! What had already come out during the inquiry? Supposing it true, was it to the honour of the nation? And what well-wisher to the character of Great Britain in the eyes of foreign nations would not gladly witness the termination and abandonment of the whole measure? The degradation was not merely at home, but abroad—it was here, there, and every where; our ambassadors, our officers, and our lawyers, had become spies, eves-droppers, and suborners of perjury. And, at last, to complete the picture, the peers of England—the representatives of noble families, and the descendants of heroic ancestors—the pillars of the state—were sent to pry into foul-clothes' bags, and to pore over the contents of chamber utensils [Cheers]. Was such the legitimate duty of a peer of parliament? Was this the mode in which the law-makers of the greatest country of the world should be employed? Was it fit that the Commons should follow such an example? Was this House, in solemn mockery, to sit down to the examination of charges rejected with disgust and detestation by the whole body of the people? He was not now speaking on behalf of the King, the Queen, or the nation; but, even if it were severe upon her majesty to stop at this moment, before the opening of her defence, he still should say "Stop, and reject this most infamous bill." At the same time he must say, that he did not think the Queen would suffer; it was very well for her learned counsel to implore a continuation, for he knew how every thing in the end would redound to the disgrace and confusion of her prosecutors; but enough had now been done to show that the preamble of the bill had not the slightest foundation, supported as

it had been by documents in the green-bag, unworthy to be submitted to any man of common sense, common decency, or common honesty [Hear, hear]. The national feeling was obvious from the precautions taken against it. The Lords had literally hedged and paled themselves in by a standing army; and in the same way the Commons, he supposed, would be required to put themselves in garrison, under the protection of the military, until, at last the sentence was verified—"obsessam curiam et clausum armis senatum." What a figure must England cut in the eyes of Europe, when her representatives should be obliged to fence themselves round with bristling bayonets, because there was no sympathy between them and the people! Under such circumstances, he considered that the best course would be that recently though unsuccessfully recommended by a noble lord (lord F. Osborne), namely, to address his majesty to prorogue parliament, and thereby get rid of the proceeding altogether. There was another question to be considered. Who was to pay for the expense of the proceeding? He did not suppose it would come from the pockets of the right hon. gentleman or the noble lord opposite. The people of England, then, were to pay for it. The people of England! Did they wish for the proceeding? By no means. They declared that it was most disgraceful and infamous, and that they wished it to be immediately stopped. Another reason just struck him against the continuance of the bill. It seemed that the House of Lords were acting as jury, judges, and even as prosecutors, for the attorney-general said that he appeared by order of their lordships. What justice could be expected from such a monstrous tribunal? What remained, then, for the House of Commons to do, but to put an end to the measure? In doing so, they would retract nothing; for they had already pronounced its condemnation. They would not, therefore, be disgraced. The noble lord opposite, indeed, might be disgraced; but as he had no reverence for the noble lord, that consideration would not at all affect him [a laugh]. All that the House of Commons had to do, was to go back to their original opinion, which was, that the proceeding could be productive only of disgrace and disaster. The noble lord had made a fair trial of what the investigation was likely to produce; and as it had completely failed, he might as well give it up. The whole fabric had broken down under those who had heaped together the frail materials, and it was mere folly not to be taught by experience. He could not divine a reason why ministers should object to a prorogation, which would save them an immense quantity of trouble, anxiety, and disappointment. A great deal had been said, indeed, about not being intimidated by the people; but he could see no disgrace in being taught by experience—in withdrawing what was most detrimental—in being intimidated from doing what was wrong, unjust, and injurious. On these grounds he should move, as an amendment, "to leave out from the word 'that,' to the end of the question, in order to add the words, 'an humble Address be presented to His Majesty, praying that he will be graciously pleased to prorogue the parliament.'"

The amendment having been seconded, was put from the Chair.

Sir *Robert Wilson* rose. He said, that the silence of ministers on the present occasion might be very dignified, but it would not satisfy the country. For himself, he would not forego the present opportunity of declaring, that should the bill of Pains and Penalties come into that House, there was no resistance—no obstacle—no impediment—which the wit of man could devise, or perseverance apply, that he would not make use of to stop its progress; not merely because the measure in its form was abominable, odious, and unconstitutional, but because he now conceived himself a competent judge of the merits of the whole proceeding. He had attended every day in the House of Lords—he had heard all the witnesses—he had listened to all that could be urged in their favour—he had observed the conduct of the judicial assembly, and he was prepared to assert on his oath—on his conscience before God—that these proceedings had originated in a foul and infamous conspiracy. These were hard terms, it was true; but it was his duty, on an occasion like this, to speak out, and not to allow the best interests of his country to suffer, lest he should give offence in any quarter. He could adduce proof, that the conspiracy originated, not at Milan, but at Hanover. Could any man doubt that when it was found that baron Ompteda, after having executed the instructions which he had received, to pick-locks, to forge keys, and to steal letters, and after

having, like a coward, refused to fight the gallant officer who challenged him, when he returned to Hanover, was covered with honours, and reinstated in the rank, and paid the arrears which he had forfeited in consequence of his conduct while Buonaparté was in that country? To the honour of the Hanoverian people, however, they shunned him as they would a pest. What could be said of the conduct of the minister at Stutgard, who violated the rules of hospitality, and who, at the moment of the departure of the princess of Wales from his house, rushed into her apartment, peeped into her bed-room, negotiated with her chamber-maid, and descended to other similar means of examinations? But, if the plot was hatched at Hanover, it grew and was perfected at Milan, which was made the rendezvous of all that was despicable, and nothing was refused that contributed in the slightest degree to blacken the reputation of her majesty: discarded servants were welcomed with avidity, and even the creation of testimony seemed to have been encouraged as long as it increased the slander and the infamy. To show the nature of the witnesses, and the manner in which they were rewarded and encouraged, he had in his possession a letter from the rev. Mr. Godfrey, regarding Sacchi, who, being hired as a courier, received from the princess of Wales seventy Napoleons a-year. It appeared that, while at Mr. Godfrey's, he was not looked upon nor treated as if he had been a menial servant, but as a gentleman of rank, for he had a servant of his own to attend him: besides, he was called by Mr. Godfrey by the name of Milani, which proved that he had so represented himself: the letter, besides, contained the following sentence: —"You wish to know on what terms I received him; the terms were *5l.* per week for himself and his servant." Thus a menial servant, receiving in Italy seventy Napoleons a-year, coming to England as a witness against the Queen, was allowed an attendant of his own, and was able to pay *5l.* per week, about *260l.* a-year, for his board and lodging alone. Was not this very much like subornation of perjury? Then there was the master of a vessel, who received, as remuneration for his trouble, at the rate of 12,000 dollars a-year! A prince-cardinal in Rome was allowed only 14,000 dollars a-year; and yet this captain of a polacre obtained at the rate of 12,000 dollars a-year for his evidence. It had been said, in that House, by a right honourable gentleman, that either the King was betrayed, or the Queen insulted. He (sir Robert Wilson) would say both. The Queen had been insulted by the scandalous and ungentlemanly introduction into the charges against her majesty of the most obscene incidents, which had no connexion with the case. The King had been betrayed, for it was impossible that his majesty could have been aware of the nature and the sources of the evidence which was to be adduced on the occasion. He had stated his opinion thus openly, because he was an enemy to the whole proceeding. He had voted for accommodation, in the first instance, as best calculated to secure the interest of the people as well as of the King and Queen—because he recollected the former sufferings of the Queen—because he was scared at the gigantic power brought into action against her—because he knew the tenderness and delicacy of female reputation—because he knew how difficult it was to resist nature, resentment, and opportunity. But having now heard the charges, and the evidence brought forward in support of them, he should be the basest of men if he did not do all in his power to preserve the Queen from perjured witnesses and a partial tribunal. If he had a thousand lives, he would willingly sacrifice them all, rather than see innocence suffer and injustice triumph.

Dr. *Phillimore* had long ago made up his mind not to say a single word on the merits of the subject, until the bill should come regularly before the House. What he now rose for, therefore, was, merely to make a few collateral and explanatory observations. The gallant general, and the honourable gentleman who preceded him, had violated the distinct understanding which existed on the subject, by entering into an *ex-parte* statement upon it [Hear, hear!]. He repeated, that the gallant general had, in direct violation of the understanding to which he alluded, dragged the House into an *ex-parte* statement of what had taken place in the other House of Parliament. The gallant general had done this most unnecessarily [Hear, hear!]. He appealed to all who had heard him, if the gallant general had not stated various details as to the competence of the witnesses, the conduct of the judicature, &c. Reluctant as he (Dr. Phillimore) was, to say any thing on the subject, he could not refrain from express

ing his firm and sincere conviction, that whatever might be the result of the proceedings, the Queen would have justice done her. He was persuaded that neither the House of Lords nor the House of Commons would denounce her majesty as guilty unless she was proved to be so. In saying this, he begged to guard himself from being undertsood to express any opinion on the merits of the case. He had not expressed any. He had not expressed any in the whole course of the proceedings. Whenever the bill should come down to that House, he would state his opinion upon it, and enter into the discussion of its policy. But he was convinced that justice would be done her majesty; and that she would not be falsely condemned.

Mr. *Bennet* said, he was desirous of an opportunity of stating, that his original opinion was in no respect changed by what had recently transpired in the House of Lords. All men, he thought, must now feel, that day after day new and increasing dangers were impending over the country by a perseverance in this measure, and that there was no safety but in retreat. For years ministers had pursued the same system of bringing into odium and contempt the institutions of the country. Their last effort was the bill now before parliament, and its introduction would be regretted, by all who loved their country, to the latest hour of their existence. Whether the bill should pass or not, the House of Commons, the House of Lords, the Sovereign, all would be degraded. He had heard the prime minister state in the other House of Parliament, that if it were wished by religious persons, the divorce clause in the bill would be abandoned. That would be to degrade both the parties. It would be to state, that although her majesty's conduct had been too infamous to justify her continuance in that rank, it had not been too infamous to justify her remaining the wife of the King of England [Hear, hear!]. The hon. and learned gentleman, who had just sat down, had said, that his gallant friend's statement was an *ex-parte* one; and he had been loudly cheered for that declaration by the gentlemen opposite. Yet what was the fact? The case against the Queen was closed; and if a man found nothing of guilt in it, it was the precise contrary of an *ex-parte* conclusion—it was an opinion formed on all the evidence that could be adduced against her. Since the days of the Star-chamber—since the time when Bradshaw sat upon the life of his king—no proceeding as monstrously unjust as the present had been heard of. The evidence had been heard—it had been enforced in all its bearings, and then the case had been stopped—stopped after the beastly, the disgusting, the loathsome evidence which the attorney-general, to his own disgrace, had thought fit to produce, had been gone through with an odious particularity. Yet this testimony, bad as it was, did not come up to the charges, many of which the counsel for the prosecution had not attempted to prove, or even to ask a witness one question regarding them. Of the allegorical personage who employed the attorney-general the House knew nothing; who were his real clients was still kept a mystery; but, to their eternal disgrace, statements had been made at which the blood boiled even at the recollection, and which, till the moment he had listened to them, he did not believe that an English gentleman would have been compelled to hear. All, however, was now over. The poison had effected its mischief. "Treason had done its worst." What her majesty's enemies could prove, they had proved; what evidence they had to bring forward, they had brought forward. On that evidence he, for one, was perfectly ready to express his conviction—a conviction that increased the more, the more he considered the subject. When ministers commenced their operations—when they arrayed all their strength—when they sent out a special commission of lawyers to ferret out all that her majesty had been doing for six years (and this was a particular injustice, since the conduct of only three of those years had been impeached), he did not believe it possible but that some misconduct would have been proved against her majesty; he did not believe it possible that men of the commonest understanding could have got into such a scrape as his majesty's ministers had got into. To be sure, her majesty's conduct was calculated to banish all notion of guilt even at the outset; the fearless way in which she laughed to scorn her accusers—the manner in which that heroic woman had set her foot upon the shore of England, and, above all, the decisive tone in which she rejected all attempts at mediation between her and her accusers, conclusively satisfied his mind at the time, of her complete innocence. He had, indeed, known persons die with

the expression of innocence upon their lips, against whom guilt was but too clearly proved; he had known them die with that declaration in their mouths, for the sake of their families, or some other purpose; but he had never known, and he challenged the memory of any other man, to say whether there had ever existed, a guilty person who rushed to trial instead of escaping from such an ordeal? Was there ever an instance of a guilty person seeking a trial who could have escaped from it? He defied any man to produce an instance of such an occurrence. The conduct of the Queen on the occasion to which he alluded had satisfied his mind of her complete innocence. He had kept that principle steadily in his mind, and it was impossible to reconcile it with the existence of guilt. His deliberate conviction, now that the prosecution had been gone through, was, that the whole was a foul and diabolical conspiracy against her majesty; he thought so early in the business, and now, at its close, that opinion was most strongly confirmed. Feeling the danger to which the country was exposed from further perseverance of any kind in such a bill as that in question; feeling that the present was the strongest instance within his memory, in which a single class, composed of the judges in the case, were in direct opposition to all the other classes of the community—knowing that both the army and navy concurred in opinion with the great majority of the people—aware that such was the opinion of the fleet and of the army—and, while the army was of its present size, it was their master [loud cries of "Hear, hear!"]—he repeated, that while the army was of the size it now was, it was their master—and, finally, seeing that, upon this particular question, these and other classes of the people held opinions directly in the teeth of power, and in the face of his majesty's government;—upon all these considerations, he could not help looking at this transaction as one of the most dangerous and most inauspicious ever embarked in by any government. The sooner it was retracted the better for the country. He knew it was irregular to allude to the other House of Parliament, as a house of parliament; but in this case it was a court of justice, and as such he should comment upon it as freely as he would upon the conduct of the Court of King's Bench, or the Court of Common Pleas. He must say, therefore, with all deference to the House of Peers, that it appeared to him from the experience both of our own and of past times, that no court of judicature could possibly be so bad. It had been remarked, that, during the progresss of this measure, frequent allusion had been made to the case of a celebrated English prelate—bishop Atterbury. He was very sure, that whoever would take the trouble of looking to bishop Atterbury's case would see that that was a complete party measure. All the Whigs went one way, and all the Tories the other, upon that occasion. The ends of justice were neglected, and it was altogether a proceeding which did no credit to times past, but was rather a lasting disgrace to the country. He believed that the present was the first time, and the first instance, in which there had ever been heard cheers in a court of justice; certainly no one ever attended at a trial in the Court of King's Bench and heard the judges cheer [Hear, hear!]. He might add, that this was the first time in a court of justice, in which counsel had been browbeaten and frequently interrupted by the judges, and attempted to be put down. It was true, that the spirit of the counsel resisted it; but it was not the less true that the attempt to browbeat and put down was made. This was also a singular instance of judges putting questions which were rejected as illegal. It might be said, indeed, that this latter circumstance was owing to the parties not being accustomed to judicial forms and accuracy; it might be so, but he was sure, that this was not a tribunal before which it was quite as safe to appear as before the twelve judges. He had, in a few words, shown what had been the effect of this proceeding before upwards of two hundred judges; let the House reflect what would be the effect of a similar proceeding before more than six hundred. A right honourable friend of his had once said, that the House of Commons had never entered into any inquiry, in the progress of which it had not disgraced itself. What the result of the pending inquiry would be, it was impossible exactly to foresee; but he was sure, that if the House knew their real interests and the real interests of the country, they would adopt the proposed Amendment, and get rid of the business altogether. With this firm conviction, he should vote for the Amendment.

The *Attorney General*, notwithstanding the tone and temper which had distinguished the speeches of those hon. gentlemen on the other side who had addressed the House on this occasion, should not be tempted to follow the course which they had taken. For what did they do? They were aware that they were now discussing a proceeding which was pending in the other House; yet they came down to the House, and gave their opinions upon that proceeding, and endeavoured—(he must be permitted to say, at least, that such was calculated to be the effect of their speeches)—by statements of what had, and not only of what had, but of what had not passed in the other House, to inflame the minds of the people upon the subject. He, for one, would not follow the example which the honourable gentlemen had set; but he might be allowed to say a word or two respecting certain expressions which had fallen from an honourable member opposite, as directed against him, and as reflecting on the manner in which he, as attorney-general, had opened the case, and produced evidence to support it. It had been said that the course and conduct pursued by him had been disgraceful, Whatever hon. gentlemen might please to say, he should content himself with replying, that it would have been disgraceful in him if he had shrunk from that line of conduct which he had pursued. It would be seen hereafter whether the proceedings which had been taken against the Queen were or were not justified; but he could assure the House, that, in their present stage, he should consider himself infinitely more disgraced if the approbation of the honourable member had been bestowed on his conduct.

Mr. *Hume* said, it had not been his intention to trouble the House on the present occasion, hut feeling strongly on the question, he hoped he might be allowed to make some observations after what had been said. An honourable and learned gentleman had thought fit to complain of the conduct of the gallant officer, for bringing the subject before the House in the way he had done. He would ask, for what was the House now assembled? What was the purpose for which they had met? What was the object of the right honourable the chancellor of the exchequer's motion now before the House? The object and the purpose were known to every person, both in and out of parliament. Was his gallant friend to be blamed for speaking of what had taken place in the other House of Parliament, and which was known to the whole country? Before the learned gentleman complained of an *ex-parte* proceeding on the part of the gallant officer, he should have considered that it had been entirely upon *ex-parte* evidence that his majesty's ministers had proceeded in their treatment of the Queen. On *ex-parte* evidence they had attempted to degrade her. He would ask, who had ordered the omission of her name in the Liturgy? Who had insulted her by the offer of a bribe to give up her constitutional rights? Who had refused her a ship to bring her to this country? Who had refused her a house to put her head into on her arrival? Who had refused her even a carriage? Such was the conduct of the ministers towards this injured and oppressed Queen! [Hear, hear!]. His learned friend would have done much better, and have acted more reasonably, if he had complained of that conduct every way *ex-parte*, which had been adopted towards her majesty. He could not, therefore, avoid saying, that the observations of the honourable and learned gentleman upon the conduct of his gallant friend did appear most unwarranted, and, to say the least of them, were uncalled for, and to a great extent they appeared partial. From one who takes a great share in, or conducts the proceedings of a court of justice, he should rather have expected a leaning towards the Queen, who really had that cause of complaint which the learned gentleman was too hasty in charging to the other side. The learned gentleman had that night taken the part of the accuser against the accused—of the strong against the weak. He had expected to have seen him rather favourable towards the case of the accused party, opposed as that party was to all the terror and all the influence of power [Hear!]. He (Mr. Hume) did not hesitate to say, that he did believe, with the gallant general, that this was one of the foulest and most disgraceful conspiracies which was ever formed. When he saw the name of his majesty, the King, disgraced as it had been in the persons of his ambassadors in foreign countries—when he contemplated the measures that had been taken to forward this proceeding—he could not come to any other conclusion than that which he had just expressed. He could, however, by no means agree with his honourable friend (Mr. Hobhouse) in the amendment now proposed

by him, because he thought it would be a great injustice to her majesty to stop the trial now when the whole of the case against her was before the nation, it was due to her, that no such intervention should take place. The evidence had done its worst; yet there was a very general feeling, from one end of the country to the other, in favour of her innocence; in which he most solemnly concurred [Hear, hear!]. There might be persons who thought differently, and of those probably was the learned individual who had summed up the evidence for the prosecution. But he must observe, that that learned gentleman had thought fit to make statements and observations which the evidence did not warrant or bear him out in doing, any more than it did the opening statement of his honourable and learned colleague (the attorney-general). He concurred with his honourable friend (Mr. Bennet) that that honourable and learned gentleman had disgraced himself by the statements he had made in that speech. He meant no personal reflections, which were not at all necessary, beyond what the attorney-general's conduct in this affair obliged him to make. In his official situation, it was his duty not to have made any statement which he did not think could be substantiated by evidence. But his conduct had been very different. He would only state one instance, and ask the honourable and learned gentleman, why he had dared to accuse the Queen of an adulterous intercourse for six years, and not prove it for more than three [A laugh, and cries of Hear, hear!] Gentlemen on the other side might laugh; but he (Mr. Hume) had only stated their own case, at which they had laughed. He could not be supposed to have admitted that that charge had been proved, as he had set out by stating, that he disbelieved it. But the object of stating this to the House was, to show, that the attorney-general had disgraced himself by laying such an accusation against her majesty which applied to a period of six years, whilst he had not only not proved, but had not even attempted to prove his charge for a longer period than three years. The solicitor-general had, therefore, also disgraced himself in an extraordinary manner, by observing, when he summed up, that every thing which had been charged by the attorney-general in his opening speech had been distinctly proved by the evidence adduced; although this very important fact was staring them in the face! Was not this disgraceful conduct? He, therefore, entirely concurred in the opinion of his hon. friend, and he would repeat it, that he considered the official conduct of the hon. and learned gentleman disgraceful. He could not agree that the proceedings should now stop, although it was certain that, notwithstanding the numerous details and disgusting statements that had gone forth, and the moral poison which had deluged the country, the feelings of the nation towards her majesty, far from being damped, was manifestly increased. He must call the attention of the House to what had fallen from the noble lord (Castlereagh) at the last meeting of the House, as he (Mr. Hume) had particularly observed at the time and had afterwards applied his observations to account for the publication of such disgusting evidence. That noble lord then admitted "the extent of the public feeling and irritation at the mode of proceeding against the Queen," and he had added, "let the trial proceed, let the evidence go forth, and he was confident the public mind would be satisfied and tranquillized." Such were nearly, if not the exact words which the noble lord then used; and he would now ask any person who had witnessed the scenes which had lately taken place out of doors, he would ask the noble lord himself, whether the feelings of the public had been tranquillized? On the contrary had not the generous feelings of the English people risen in favour of her majesty, in the same proportion that infamous and incredible charges had been poured out against her? Her prosecutors had gone through their case—they had done their worst—they had exhausted all their power—and now, on this *ex-parte* case, he would say, that if he were a juror, he would, before God and his country, acquit her majesty of all the charges that had been brought against her. He the rather said this now, because, although he was the first person in this House to mention her majesty's name, he had been extremely cautious not to prejudge her case. He had carefully refrained from expressing an opinion one way or the other, until the prosecution had closed. He would candidly confess that he had (with his hon. friend) expected when ministers did venture to bring forward charges of so gross a nature against her majesty, that they would, at least have attempted to support them by the testimony of credible wit-

nesses from Italy, and that they would have endeavoured to do so also, by English witnesses! He did, from the proceedings, expect that some damning facts as they might call them, would be brought against her. But what had been the result? It had been charged that this adulterous intercourse of the Queen had been of the most open and glaring kind—of the most public and notorious nature. If so, he would ask, on what authority these assertions rested, and why they had not been proved by respectable testimony? Why did they insult the country with such witnesses when they had other respectable Italians and Englishmen who were with the Queen to produce? and they ought to have been produced on the trial if such conduct had really taken place. The witnesses produced were not only of the lowest and basest classes, but ministers had recourse to the miserable subterfuge to have it believed, that they had been compelled by their respective governments to come to England to give evidence. Why had foreign governments been so officious in this affair? The reason might be easily supposed. He had no doubt on his mind but that the Queen would most satisfactorily refute all the falsehoods alleged against her—would clearly expose the foul conspiracy that had been formed against her life and her honour, provided that she had justice done her. He said, "if justice were done her;" for while, in the course of the pending proceedings it appeared in evidence that the ambassadors of England and foreign states were acting in the capacity of spies and agents, collecting every foul tale, and giving every facility in their power to the witnesses against the Queen, he knew, and it would be proved, that they were throwing obstacles in the way of the witnesses concerned for the Queen. He held in his hand a letter upon which he thought he could repose the utmost confidence, in which it was stated, that Mr. Henry who left this country admitted and recognized by his majesty's ministers as the express and accredited agent for examining and marshalling evidence for her majesty, in order to refute the specific facts charged, had been much impeded in his mission—that vexatious impediments as to passports and otherwise, had been thrown in the way of this officer, who was known to be acting for the Queen. This he believed to be the fact, and that it would be proved that four of the witnesses who had tendered their evidence and agreed to come to England, had been, through the machinations of colonel Brown, prevented from coming, and had actually declared they would not come [Hear!]. He must not state what were the means supposed to have been employed for that purpose; but, after these facts, could any one talk of the impartiality observed in this case, when in every thing the most unjustifiable partiality was shown against her majesty? While it now become every one to wait the issue of these proceedings, he confessed that he did not think the House of Lords would find the Queen guilty. He was satisfied they would not do so, were they to judge only by the present evidence; but, above all, they would not do so, when her majesty's evidence should be brought to rebut the charges now made. When these proofs should be adduced, he felt confident that this House would never be troubled with the bill. Under these circumstances, he was against the amendment of his hon. friend; because he thought that her majesty ought to have an opportunity of rebutting the evidence now against her; and he hoped that her majesty's witnesses would be afforded every facility to come to England for that purpose. He would ask the noble lord (Castlereagh) whether any orders had been given, or measures taken, to retain in this country until the close of the trial those persons who had been produced as witnesses against the Queen? He understood that one of them, Rastelli, had been seen on his route to Italy, no doubt for the purpose of being employed to prevent such individuals as he might know from coming. He had been actively employed to collect evidence for the prosecution; and it was fair to infer, that his business now was to prevent evidence for the defence. If so, what justice had her majesty to expect? And here, by the way, he might be allowed to ask, who Rastelli was? He was a stable boy or helper originally, in the service of her royal highness; but, since his employment by the Milan commission, he had become a gentleman. So had all the witnesses hired against her. They had been cherished and had lived on the fat of the land [a laugh!]; whilst those disposed to speak in her favour had been discouraged and intimidated. When foreigners were given to understand, that they would give offence to the government if they should come to give evidence

in favour of the Queen, and would meet with such impediments as he complained of, could it be any wonder if they manifested an unwillingness to come? The prosecutors had money to give, had offices to promise; but the Queen had neither! He repeated and was convinced, that if justice were done her, every charge made against her would be refuted. He believed the whole of this conspiracy to be as foul as ever disgraced this country; and he hoped that it would terminate in the disgrace and confusion of its authors. He thought his majesty's ministers, and those who acted with them, the Bishops, should be cautious what they did in this case, under pretence of protecting the honour of the Crown and the morals of the country. Let them look at the conduct already pursued, and what its consequences might be. — Every honourable member, he thought, would agree with him, that the moral poison circulated by means of the evidence of these wretched Italians, greatly tended to demoralise the country— that that disgraceful and filthy evidence would do more injury to public morals than the misconduct of two queens three years ago in a foreign land could, on their own showing, have effected [Hear, hear!]. So little, indeed, was known of her majesty, that no individual had been found to state one fact against her for the last three years! If, then, her misconduct had been so private, so little known, how would her example be pernicious? Where was the state necessity for such a proceeding? To talk of state necessity, therefore, in this case was clearly the vilest and most hypocritical cant in the world. The proceeding was, in fact, as unnecessary as it was disgraceful; and if justice should be done, it would be proved that the whole had originated in a foul conspiracy. He earnestly hoped that, in that event, measures would be taken to inquire into the magnitude of the offence, and that every person implicated would be brought before the House, and impeached for their conduct; but, above all, he thought ministers ought to be the first objects of impeachment [Hear, hear!]. Not that he thought his majesty's ministers were the original inventers or framers of that foul conspiracy; but because they had adopted and brought it forward to agitate the public mind at this present time—by which public misfortune, they had done more to disgrace majesty, and to degrade the dignity of the throne, than any thing which had, in his recollection, been before effected. He would venture to say, that all the meetings termed "seditious," which had taken place of late years, and which his majesty's ministers had in many instances punished by death or transportation, had not done half the real harm and mischief which this measure of theirs had caused to the country whether he viewed it morally or politically. He repeated that this conspiracy should be strictly examined, and every part thoroughly sifted. If justice were to be done alike to the high and the low, which the laws prescribed, why should weavers be hanged for endangering the throne, whilst ministers escaped the same offence with impunity? [loud laughter]. He would repeat his conviction, that this proceeding would prove highly injurious to the cause of royalty, whilst it rendered us the laughing-stock of Europe! He believed that at this moment foreigners laughed at this country when they saw a single woman put at defiance the government, supported as it was by the Holy Alliance, and by all means good and bad in their power; whilst, on the other hand, her majesty was deprived of the means, and impeded in bringing over witnesses in her behalf [Lord Castlereagh signified his dissent]. He would, notwithstanding the dissent of the noble lord, assert, that difficulties had been thrown in the way of the Queen's witnesses, which had not occurred to her prosecutors, and that the same would be proved. The conduct of the ministers, sanctioned as it was by the bench of bishops (with one or two exceptions) deserved neither respect nor support. It was injurious alike to the honour of the monarchy, and to the cause of the church. They were well aware of the enormous expenses of the church establishment under the plea of public good; and he would not refrain from adding, that the millions which it cost were not necessary for the morals of the people. He would caution the gentlemen of the higher clergy, however, to take care how they took away the corner stone of such a fabric—how, by forfeiting the public respect, they meddled with the established religion of the country. The people of England might see that, as in Scotland, morality and religion might be promoted without the assistance of bishops—might be upheld without the great expenses of a church hierarchy.

They had heard in that House the

most vehement declamations against radicals as they were called; but his majesty's ministers were the most violent of radicals. Their innovations and dangerous attacks on the constitution and religion of the country were doing much more to disgrace the character of the bishops, to degrade that of the peers, and to endanger royalty. These were the ministers whom he thought in justice ought to be impeached; and if he possessed the requisite abilities, he should consider it his duty to bring them before the House. Facts which had come out in evidence proved to what shameful lengths this prosecution had been carried—proved the subornation of witnesses — proved the improper interference of colonel Brown, as well as our ambassadors at Venice and other courts. But, let us, however, wait until her majesty's witnesses give their evidence, and show in proper colours the nature and extent of these transactions. He was surprised that the bishops, whom the people were accustomed reverently to look up to as patterns and protectors of the public morals, should not have dissented from a proceeding which would pull down the corner stone of that edifice on which their power principally rested—a proceeding which went to dissolve the most sacred of ties—a proceeding directly contrary to the laws of God and man—a proceeding not the less revolting to constitutional feelings, because the ministers had stated, that the clause for the divorce might be withdrawn.—He maintained, that the ministers had done much to degrade royalty, and to disgust a high-minded, and a generous-hearted people. But, nevertheless, he would intreat his honourable friend not to persevere in his amendment; because that motion, if successful, would deprive her majesty of the opportunity of rebutting the evidence against her. It was of the last importance to her, that the cause should be fully heard, and that every charge should be clearly refuted. He was convinced that her majesty's innocence would then be admitted by those who now thought her guilty, even by those very sceptical persons who thought they saw an adulterous intercourse in every motion of her majesty [A laugh]. He was anxious that those who had been led astray by party feelings should be convinced of their error, and recover their true British generosity—that they should remove every illiberal and injurious sentiment, and support the cause of an injured and innocent Queen. Deeming it unjust, under these considerations, to pause in this stage of the proceedings, he should content himself for the present, by expressing his determination to vote against the amendment.

Lord *Castlereagh* said, that after the turn which the debate had taken, he should not find it necessary to trouble the House with many words. But there were some situations in which discussions were brought forward upon grounds so little reasonable, and arguments adduced so foreign to the business properly before the House, and which, in his own mind, he might feel, could never have any influence in it, that he found it impossible not to offer some observations, however repugnant to his feelings it might be to be thus dragged into a debate of this kind. He was quite sure that the good sense of the House must be disgusted at finding that they were now occupied upon a debate on a proceeding still pending in the other House; that the character of that House, and with it every thing connected with one of the most important measures ever agitated there, were thus unnecessarily dragged into a discussion; and that, in the judicial spirit in which an hon. member on the other side of the House had spoken, his impartiality and his penetration appeared to be summed up in this charge—that one of her majesty's counsel had been shamefully browbeaten by the House of Lords! This might furnish the House, he thought, with a true measure of the temper in which all the other observations they had heard had been made. So far from having any effect, indeed, with hon. gentlemen, or any way degrading the illustrious assembly in question, they could only serve to show that there were persons in the country of minds and views so perverted as to prompt them to attack the high character of an assembly which their attack could not reach. He had been very much surprised to hear the hon. member for Westminster assume (which he had no right to assume), that that House had already decided that it would not make any inquiry into the subject before them. That was a point which had never been decided. He (lord Castlereagh) certainly had proposed to bring the question to an issue; but hon. gentlemen would remember the steps which it had been at length agreed to take. Fore-

seeing that this inquiry would take the shape of a legislative proceeding in the upper House, and afterwards come down there for their decision, the motion by which the matter had been so far disposed of had been submitted and agreed to. So far from the House having settled the question, this was, if he mistook not, the third adjournment upon it which they had adopted, being deterred from further proceeding in it, by the necessity of the measure coming down to them from the other House. And on the subject of the bill eventually so coming down from the upper House, the hon. and gallant general (sir R. Wilson) would allow him to say, that it was not his resolution of throwing every possible obstacle in its way which could prevent or retard the coming down. The gallant general had told them what he would do: he would, of course, conduct himself as he thought fit; but perhaps he would permit him to observe, that by such predetermined opposition he would not much raise his character in the opinion of the country or the House. But the fact was, he could not prevent the House of Peers from sending down the bill to them; and if that House, as it was competent for them to do, chose to send it, they (the House of Commons) must dispose of it in one way or the other. The gallant general, in the prosecution of his endeavours, might oppose the first reading, for instance; but neither he, nor any of the judicious assistants by whom he appeared to be aided, could prevent the bill from regularly coming down. He thought it would not be very consistent in them, if they should endeavour to get rid of the bill without any inquiry or discussion at all; and he submitted to the House, that unless they were prepared to run counter to all their proceedings, and to act in an unusual and hasty manner, the very limited attendance of the House—which had happened of course, in the contemplation of an immediate adjournment—was a reason why they should not now proceed upon a question whether or no they should get rid of the measure altogether. With respect to the interests of the Queen herself, none of her legal advisers were in their places; although there was an hon. gentleman (Mr. Hume) who spoke in the tone, if not of a legal, at least of a political, adviser of her majesty. That hon. member spoke in the first person plural, and had said, "we" thought this, and "we" did that, and "we" felt, and "we" must consider—from whence he inferred that he was politically an adviser [A laugh]. As to the delicacy and disgust of an hon. gentleman opposite (Mr. Bennet) and the gallant general, he would beg to know how they supposed the charges had been got up? He was, however, glad to hear the hon. member express his repugnance to get rid of the question by that subterfuge, of which the gallant officer and the honourable member for Westminster would avail themselves — they would put down all inquiry on the plea of delicacy. If the hon. gentlemen's minds could bear nothing but broad statements of facts, and if nothing short of proof of the actual crime could satisfy them, he, for his part, could think nothing more easy than to have fabricated such a fact, if those who deposed to the charges intended to depose falsely. Did the honourable gentlemen think that those disgusting details were the mere creation of the attorney-general? If there was a conspiracy fabricated by individuals—if a conspiracy existed, how easy and natural would it have been for those who sustained it to effect their object, as far as the honourable member's reasoning went, by fabricating the fact at once, instead of going into long and disgusting details? Was his hon. and learned friend, the attorney-general, to be required to draw out a picture himself, which might suit the honourable gentleman? He could only assure those who had leapt so rapidly to a conclusion in this case, that he feared they would not as yet be able to carry conviction with equal facility to the minds of others. If the hon. gentleman, by so conducting himself, and so inveighing against his majesty's government, meant to protect the interests of the Queen, he really thought, that he was not adding one iota to her defence, nor adding one feather to the weight of her testimony. He must be actuated either by an erroneous idea of serving her majesty, or by a feeling which he (lord Castlereagh) could not, for a moment, impute to him (as he could impute no motive but a just one)—a wish to inflame the public mind. Every thing which had been said was only an additional reason for going on with the inquiry. If her majesty was innocent, her innocence ought to be sifted to the bottom; and if the whole were a conspiracy, he assured the House no man would be more anxious to get at the fact than

himself. But it was not by quashing the proceedings that either of these objects would be attained. Whatever might be the result, whatever decision the evidence might call for, he was confident that there was too much manly feeling in that House to shrink from the investigation on which parliament had entered, or to shrink from discharging their duty from any considerations of delicacy, or any representations of the temper of the country. If there was a conspiracy, that was an additional reason for proceeding with the investigation, and sifting the subject thoroughly. If there was a conspiracy, in the name of God, let it be sifted to the bottom by full investigation of the evidence. If his majesty's ministers had been deceived, they had been as anxious as the hon. gentleman to avert the consequences of this painful measure; and if his majesty's ministers had been deceived by persons from various parts of Europe speaking to various circumstances—and a better selection could not have been made for the investigation of truth—if his majesty's ministers had been deceived, and if this was a conspiracy, the hon. gentleman would not say that his majesty's ministers ought to have of themselves put a negative upon the information and charges without an investigation. But if this was a conspiracy, it was a conspiracy without example; and that was an additional motive for proceeding with the investigation; and whatever the hon. member might think, the course pursued was that which justice required. The gallant general, who had spoken rather as if he considered this a military question, and not a judicial inquiry, had produced letters by which he endeavoured to traduce the characters of witnesses in the other House, forgetting that the inquiry in that House had not terminated, and that the facts alleged could be there judicially inquired into. Why had he not handed the letter to the hon. and learned gentleman who conducted the Queen's defence, so that the circumstances might be inquired into on oath? What could he have intended by making a garbled statement to the House of circumstances which might have been regularly inquired into in the other House, or which might hereafter be investigated here? The gallant general had distinctly charged, that this was a Hanoverian conspiracy; and, by way of proof, repeated the often-told tale of baron Ompteda having broken into the house of the illustrious person, and having attempted, by most unjustifiable violence and outrage, to get possession of the illustrious person's papers. He (lord Castlereagh) had thought it his duty to make inquiry, and had applied to count Munster, a man of the highest feelings of honour, who assured him that there was no ground to give countenance to the charge, and that he believed no such thing ever occurred. Several letters, too, had been received by him, which spoke of baron Ompteda in terms of the highest respect. As to the mode of calling him to account which had been alluded to, whatever might be thought of that as a mode of ascertaining truth, baron Ompteda had lent himself in the most willing manner to the proposition of that kind which had been made to him, and had waited a whole fortnight for his antagonist. But he would put it to hon. members whether any thing could be more unfair than thus placing the characters of individuals in issue, who had no opportunity afforded them of vindicating their conduct.—Another subject, to which the attention of the House had been called, he must also advert to. He felt how foreign it was to the question before the House—he was sorry to fatigue the attention of the House by travelling so far out of the proper course—but the digression was very reluctant on his part. The hon. member who spoke last had insinuated, that there was a disposition to obstruct and embarrass the Queen's means of defence. From this it was clear that the hon. member was not one of the legal advisers of her majesty, because if he were, he would say, "We are satisfied with all that the government has done—his majesty's government has done every thing that we desired—they have done all that we wished—they desired us only to mention the words, as they wished to gratify us in every possible wish." It was clear the hon. member was not in the legal council of her majesty, whatever he might be in her council out of doors. He (lord C.), it was true, had reason to know and to lament, that at first some obstruction did arise from official forms; but that was no sooner known, than every step was taken that could be taken, to facilitate the objects of the Queen. But the inconvenience which her majesty's agents might have suffered abroad were not exclusive. His majesty's ministers, too, might complain of the official delays of foreign countries, and of the personal

inconvenience which followed. Most important documents, connected with the present case, they thought might have been produced at Milan, but they found that it was first necessary to get an order from Vienna. It was also found that the order from Vienna must be previously inspected by the proper agent; and though the time was extremely pressing, and the bill was actually pending before the other House, those documents were sent back to Milan to be certified; and, in consequence of the delay which took place, they did not arrive in London until several days after the case had been closed. They came, of course, too late. They could not however be expedited, notwithstanding the pressing applications of colonel Brown and of lord Stewart. He troubled the House with this detail, in order that the House might not suppose that all the delay, or obstruction, or inconvenience, was on one side. They were obliged to submit to the delay which had occurred, because they could not expect that official forms, so long acted on by the Austrian government, would be laid aside on this occasion. The Austrian government had acted with the same equal spirit to both sides. The moment the communication had been made to him of the obstruction which occurred, he set himself to remove it. Dr. Lushington was the hon. gentleman to whom he made the proposition, and he executed simply and entirely the wish of the Queen's counsel.—On the question itself he had nothing to say. The House had already three times given their opinion, and no human mind could doubt that honour and justice required that parliament should proceed to investigate the charges which placed the Queen in the painful situation in which she was at present placed. If he had not forgotten the gallant general's language, and the words of the hon. member near him (Mr. Bennet), at moments when ministers were anxious to avoid this investigation, the honourable members were loud in their taunts. Why not produce specific charges, they asked—Why not state distinct charges? Why not bring forward their accusation? The hon. gentlemen on the other side cried out, but very inopportunely, on this subject; for when ministers wished for inquiry, the hon. gentlemen opposed it: when ministers were not for inquiry, then nothing was to be heard from the gentlemen opposite but inquiry. As to the feeling out of doors, he felt as painfully as any member the deep sensation created by the details of this investigation. He knew the generous feelings of the people of this country; he knew that their feelings were alive to such a case, and particularly when the sex was implicated which they all felt most anxious about, and most desirous to honour. But he hoped he did not regard this feeling with unbecoming dismay. He was confident that this anxious and important question, after investigating all the circumstances in which it was involved, would be so settled as to satisfy the feeling of the country. He felt confident that it was impossible that injustice could be done, when the investigation was openly conducted in the face of the two Houses of Parliament, in the face of the country, and in the face of all Europe. He wished honourable members had prevented themselves from speaking upon the subject in the tone in which some had indulged, and had suspended their judgment till the whole of the evidence should be before them, whatever the effect of that evidence might be. The members of that House, at least, ought to come to no conclusion upon the charge, or the evidence in support of the charge, till they had heard her majesty's defence. The honourable member had not, he was satisfied, intended to produce such an effect; but their language that night would have the effect of encouraging, a party—not numerous he trusted—who fastened on this, as on every public calamity—whether a mutiny in the fleet, the evils of a long-protracted war, or the distresses of the country—with the hope of making it the means of effecting their base and wicked object; namely, the subversion of the laws and constitution of the country. There was much of generous delusion in the country (which he respected) wound up with this question. If honourable members wished the elements of this delusion to be dissolved,—let them not follow the course which they had taken that night: for, in the effect of their language, they were countenancing, co-operating, and assisting, in the most mischievous designs, by the tone of intimidation and of precipitation which they adopted, and which would admit no honest and sound discretion to the consideration of the subject. Such a tone was calculated to give countenance abroad to the most mischievous spirit. He trusted, however, that nothing which had fallen

from the other side would prevent the House from taking that temperate course which justice required, if the bill should come down to them. Whatever warm feelings members might have expressed that night, they would, he was confident, feel their error when they should come to consider the subject judicially. The House, he was sure, would discharge its duty, as on all difficult questions it had done, with an enlarged view of the case, and a determination to promote the great ends of justice.

Mr. *Maberly* said, he should not assert that the whole of the proceedings against the Queen originated in a foul conspiracy; nor did he rise to insult the nice honour of the attorney-general by making any comments on the speeches of the counsel; but he felt himself called upon to give the reasons why he supported the motion of the honourable member for Westminster. He had formerly had the pleasure (and he could sincerely say it was a pleasure) to vote with the noble lord Castlereagh, in the majority which declared, on the 22nd of June last, that the proceedings against the Queen, whatever the result of them might be, could not be otherwise than derogatory from the honour of the Crown, and injurious to the best interests of the country. He, therefore, now, in accordance with that resolution, and for the sake of maintaining his own consistency in what he conceived to be a correct opinion, should vote for the motion of the hon. member for Westminster. The noble lord had talked of the fear of public clamour, and had dealt out his monitions to that side of the House, in a very general and unwarrantable way. The noble lord should have confined his admonitions to those who needed them. He meant to do his duty, as fearlessly and as regardlessly of public clamour, as the noble lord; he would perform his duty to his constituents as honestly as the noble lord; but there necessarily was, in the judgment of every man, a public feeling that should have some weight with parliament, and it was manifest to every one that that opinion was now decidedly against the proceedings in the case of the Queen, and it was equally clear, that it was, in a great measure, founded on that vote in which he had concurred, and which he now wished the House to maintain. He had thus stated his reasons for the vote which he should give; he should have been able to avoid that necessity, but he was not able to avoid it without shrinking from the discharge of his duty. He should vote for the amendment of the honourable member for Westminster, on the ground of consistency; and, on the same ground, in every stage of the proceeding, he should vote against pressing the measure forward. A noble lord, in another place, had talked of the relinquishment of the divorce part of the bill, and he had professed that his majesty had no feeling whatever respecting the measure. Would any one say that the nation had a feeling in its favour? The noble lord had left that party in the measure—the nation—out of the question. He (Mr. M.) thought the interest of the nation was that which they had principally to look to; and he could not therefore agree with the hon. member for Montrose (Mr. Hume), that the bill should be pressed forward in order to enable the Queen to clear herself. The guilt or the innocence of the Queen was of no importance compared with the evil which was inflicted on the nation by the proceeding.

Mr. *Creevey* said, that he also should state why he agreed with the honourable member for Westminster, in the amendment which he had moved. He could not agree that the proceedings which were now carrying on in the other House did not form a fit subject for discussion at that moment. He had known no public question that had ever arisen, of greater importance than whether the bill pending against her majesty should be allowed to proceed? and he knew no other mode of bringing that question into discussion, and getting an opinion on it than by such, a motion as that of the honourable member for Westminster. On a former occasion, when the noble lord, the member for Cambridgeshire had made a similar proposition, he had determined to support it; but the counsel for the Queen had said, that it would be a great hardship if she were not allowed to go into her defence, and he had consequently withdrawn his support from that motion. But the fact was, as it now appeared, that though the whole of the case against the Queen was gone through, the injuries she had suffered were so great, that the evidence against her went, in the opinion of the public, for nothing. The people had seen the Queen charged with a crime that was no crime by law; menaced with an act which was at once to make the

crime, and to pronounce the judgment on it; they had seen her negotiated with and threatened alternately; they had seen her formerly turned out of her house; they had seen her almost compelled to leave this country; they had seen her, when abroad, followed by spies, all her actions watched, attacked by a confederacy of all the powers of Europe [Lord Castlereagh dissented]. The noble lord might shake his head at this, but he (Mr. C.) had attended to the evidence as far as it had gone in the House of Lords; he had heard from the mouths of the witnesses, that such and such ministers and ambassadors had requested them, and had threatened to use force to induce them to come here. He had seen the way in which the resources of England had been lavished on the witnesses; and he felt convinced, that the same powers that were set in motion to bring hither evidence against the Queen, would be employed to keep back the witnesses in her favour. Such were the calamities which were heaped on an individual—and that individual a woman—and that woman too, a queen—a princess of the house of Brunswick. These things could not be known without arousing the warmest and most lasting indignation. The fact was, political questions were comparatively matter of a day, but violations of the principles of justice were never forgotten. Why, but for this, was it, that now, at the distance of nearly two hundred years, the name of Hampden, a plain country gentleman, who had defended his property against the arbitrary orders of the court, was still famous among Englishmen? Why was it but for the villainy and corruption of the judges who had sanctioned the proceedings, that he was in the mouths of every one who could read the English language? That was a proceeding against a private man. Did the noble lord think that these proceedings against the Queen of England, would excite a feeling less intense or less durable. Did he think that it was nothing to set the aristocracy against the middle and lower classes of the nation? He was not one of those who thought lightly of the aristocracy; they were identified with all that had been gained for liberty in this country; and he wished to see them continue to be thus identified; but he was sorry to say, that as far as they had gone, they injured themselves in public esteem, and he believed the aristocracy to be in the wrong, and the great body of the people in the right. Would not the noble lord rather keep the aristocracy and the people united, than separate them, as they were separated on the present question? The bill degraded, as it went on, every institution in the country. It professed to degrade the Queen. It had already degraded the House of Lords. The peers of England had been, day after day, sitting, to hear evidence which every master of a family would hide carefully from his sons or daughters. Had not the noble lord, too, seen in the published accounts of the evidence, the notices of the cheers of the judges when any thing came out which seemed to promote the case against the Queen [Lord Castlereagh intimated his dissent]. He (Mr. C.) had heard these cheers with his own ears. He had been a witness of that frightful exhibition. He had heard the counsel reprimanding the judges [Hear, hear! from a member on the ministerial side]. He did not know what the honourable member meant; but he would ask whether it was not a reprimand, and whether it must not have been felt as a degradation to that assembly, when the counsel for the Queen asked what was the meaning of those acclamations? Did he not think that such an event was sincerely to be deplored? This was a real degradation to the aristocracy. Then came the intimation that the divorce clause was to be given up. This intimation was given at a time when it was apprehended that recrimination, which was inseparable from the measure, in whatever way it was urged, might be resorted to. The honourable member for Shrewsbury had justly observed, that whatever had been said of the king in the House, or still more strongly out of the House, did not degrade the king half as much as this attempt to withdraw the divorce clause. The next establishment that was to be degraded was the House of Commons. If the bill, by any misfortune, should come to them, in what situation would they be? They were a jury of six hundred, without the power of administering an oath. He did not complain of this, but such was the law. The only authority to whom they could appeal would be that of the worthy chairman of the committee of ways and means. During the time he had attended the House of Lords, he had seen the judges retire two or three times a day to instruct the House, in which there were four learned persons who had filled the office of lord chancellor. What could

they do in that House without the assistance of any judges, and without any legal authority other than that of the worthy chairman? He hoped that this difficulty would be never brought home to them; and he felt not only justified, but anxious to vote with the honourable member for Westminster, for an address to prorogue the parliament. To put a stop to this calamitous inquiry was the only mode of preventing every thing dignified in the state from being degraded; it was the only mode of preserving the administration of justice unviolated; above all, it was the only mode of harmonizing the higher, the middle, and the lower orders of society.

Mr. *Peter Moore* said, he should state his reasons for supporting the amendment, as well on account of the importance of the subject, as because, from his having attended a great number of public meetings, he had a better opportunity than many members of knowing what the public opinion was. He now lamented, that the motion of the noble lord the member for Cambridgeshire (lord F. Osborne) on a former occasion, had not been carried into effect. The objection that was then made to the motion was, that as the evidence had begun, it was fit it should be carried through. He had not thought that argument conclusive, and he should vote for the amendment of the honourable member for Westminster on the present occasion; and in doing so, he should be acting in unison with his constituents, who had had a meeting on the subject, and had instructed him to resist every step of this inquiry. The noble lord's objection appeared the least of all objections on the subject. The noble lord had contended, that public justice required that an inquiry of this nefarious character (for it was nefarious) should be further continued. But a day of reckoning would come, and it was not far distant. He had given the subject every possible consideration—he had looked at every pretence on which it had been brought forward—he had weighed all the evidence; and his solemn conviction was, that this was as dark and foul a conspiracy as had ever been formed, and that his majesty's ministers were at the bottom of it. He would not mince it. He repeated, that it was as foul a conspiracy as had ever been formed, and that his majesty's ministers were at the bottom of it. He had reflected on the state of the public mind; and there was but one opinion as to the necessity of rescuing the public and his majesty from the hands of his ministers, and saving the monarchy; for the monarchy was hazarded. He gave no opinion of the guilt or innocence of her majesty. On that subject there should be no doubt, after the ship-loads and cart-loads of evidence which had been imported. But his great objection was, on the ground of the public interests, and to rescue the monarchy from danger. Ministers had dragged the monarch to the chin in dirt and filth. For what purpose? What! but to get themselves out of the foul conspiracy? It was on the principle of justice that he resisted the proceedings; and so said the majority of the House, which had voted that the proceedings, terminate in whatever way they might, could not fail to be derogatory from the honour of the Crown, and injurious to the best interests of the country. But the ministers had, in spite of that vote, proceeded to derogate from the honour of the Crown, and to injure the best interests of the country. The country was persuaded, that till their affairs were out of the hands of those men, there was no security for persons, or property, or laws, or constitution. What was the judicatory in this case—who was the prosecutor? As in 1806, there was a child without a father, so there was now a counsel who could not tell who employed him. Who had drawn up the bill? If a public officer—why did he not come forward and avow himself? The attorney-general said, that he acted under the House of Lords; but he did not know how they could give any direction till an accusation was preferred. There was, however, but one opinion prevailing throughout the country, and that was, that all further prosecution of this inquiry ought to be immediately put down. Every day it was hazarding the affections of the people to their government; every day it was giving rise to other questions of a no less dangerous nature. It was asked in many places whether, if a Queen could be set aside by a proceeding of this kind, persons of equal or higher rank might not also become the object of a similar measure? It was inferred that the bench of bishops, that the House of Lords itself, might, if circumstances should so happen, be treated with as little respect. Was it wise thus to open the way to discussions which could not be advantageous, and to force names and institutions which ought to be

held sacred upon public attention in this point of view? For his own part, he believed the inquiry had been gone into, and that the bill itself had been introduced, only as an indemnity to ministers for the conduct which they had previously observed towards the Queen in leaving her name out of the Liturgy. It was with this view that the other House had been led into its present extraordinary situation; it was for this purpose they had assumed the office and character of political judges. Now, what was the true meaning and definition of a political judge? In other courts judges were bound by their particular oaths, and by established forms of proceeding, and nothing was considered more detestable than what was called a political judge. Amongst the political judges of the Queen, however, were some even of her accusers; and the person who presided at the tribunal, and who gave a tone and direction to the whole Court, was the first minister of the Crown. If the large assemblies—if the many thousands in this metropolis—who had expressed their opinions on this subject, were not all in error—if their unanimous voice did proclaim the truth, as he in his conscience believed it did, then not only was the Queen an innocent woman, but the charges against her had originated in a foul conspiracy. He sincerely regretted that the House had not interposed at an earlier stage, so as to stop the prosecution effectually, or at least to prevent its going to the outrageous and disgusting length to which it had been carried. The ministers of the Crown had so degraded their sovereign, that if recrimination were now resorted to, his majesty, upon the ordinary rules and principles of such proceedings, might be cited as a witness, to put in his answer to charges against himself. He had received a letter only two days ago from a man of high character and professional talents, now in the course of his travels, and who represented the general sentiment of the country where he then was, to be, that England was degrading the laurels which she had acquired by so many victories, and that the sun of her glory was about to set for ever [A laugh!]. He could assure the House, that this was the letter of an eminent man, well known in the circles in which he moved, and the pride of the profession to which he belonged. He believed he had now said enough to point out the danger to which the constitution, the bench of bishops, and all the constituted authorities of the realm, were exposed, by a proceeding which the House would have done well to stop when at an earlier period a noble friend of his had made a motion to that effect.

Mr. *Ellice* said, he was under the necessity of differing from his honourable colleague on the subject of the proposed amendment. If he could think it consistent with any principle of justice, or if he could persuade himself that it would have the effect of limiting the calamitous consequences which every day became more apparent, he should readily sacrifice his own opinion to that of his honourable friend. But as he did not think it likely that the amendment would be carried, he must frankly say, that he saw no reason to concur with it. The evidence against the illustrious person in question had gone forth to the public, accompanied by the statement, summing up, and comments of the law-officers of the Crown. To him it appeared that it would be gross injustice not to allow her majesty the opportunity of rebutting it, and of proving what had been asserted, that the charges were the offspring of a foul conspiracy. Upon these grounds, he felt obliged to vote against the proposition for now putting an end to the inquiry, although it would give him extreme satisfaction to support any motion that could stop the further proceedings, if that measure was not at the same time an act of injustice towards the illustrious person accused. He would also state his determination, if the bill should unfortunately come down to that House, to oppose the first reading of it, on the principle, that bills of such a description ought never to be entertained, except in cases where they were essential to the public safety.

Sir *M. W. Ridley* expressed his concurrence in the views stated by his honourable friend who had just set down; but he rose for the purpose of putting a question to his majesty's ministers, which in his opinion was of importance both to the character and dignity of the government. He had observed in a report of what had passed at a recent meeting held at the Crown and Anchor, that an honourable baronet (sir G. Noel), who presided on that occasion, had read a letter from a worthy alderman (Wood), in which it was said that the defence of the Queen had been left short by the want of pecu-

niary assistance from government. Such a representation was, he trusted, erroneous; but, if correct, his majesty's ministers must, he was persuaded, incur the heaviest displeasure of that House. He wished also to inquire whether there was any objection to lay before the House the amount of the sums advanced for the purposes of her majesty's defence, and he availed himself of that opportunity to observe, that the noble lord had fully vindicated administration from one charge which had been brought against it.

The *Chancellor of the Exchequer* said, he was perfectly prepared to give the honourable baronet a distinct official answer to the question which he had put. He could assure him, in the first place, that every sum for which application had been made by the Queen's legal advisers had been advanced, with an intimation from the Treasury, that if any further sums were deemed necessary they would be cheerfully furnished, subject only to such an account as the legal advisers of the Queen should be able to render.

Sir *M. W. Ridley* asked, what was the actual sum advanced on account of the defence?

The *Chancellor of the Exchequer* replied, that the whole amount of what had been advanced was 20,000*l.* The sum of 10,000*l.* was advanced before the proceeding commenced, and a second sum of the same amount about three weeks since.

Mr. *Hume* wished to know how many days had elapsed between the application for the second sum, and its actual advance?

The *Chancellor of the Exchequer* said, that no further time had elapsed than was strictly in accordance with the forms of office.

Mr. *S. C. Whitbread* wished to state, in a very few words, the reasons which induced him to support a motion which had for its object an immediate abandonment of the proceedings against her majesty. In his opinion, the calamitous consequences which they had a tendency to produce, and were really producing, became more obvious every day. He had never indeed been able to discover what beneficial end was to be answered by them. It was said, that the subject had been taken up out of a regard to public morals; but who would say that public morals would not have been more respected by a suppression of the inquiry, than by blazoning its details throughout the country? But, if the interests of morality formed the chief object of this proceeding, he hoped their search would not be limited to the conduct or manners of the Queen. The Queen was, indeed, the first subject, and it was proposed to make her a great example; but perhaps there were persons as high, or even higher, whose example might be yet more important. The evils of proceeding further with the bill of Pains and Penalties were inevitable; the advantage none. He should only add, by way of notice, that as the House had received information with regard to the sums advanced for the defence, he should, as soon as the present question was disposed of, move for an account of the expenses incurred in the prosecution.

Mr. *Lennard* felt it his duty to protest against the doctrine of the noble lord, that it was improper for this House to interfere with the proceedings of the House of Lords. He was surprised to hear such an opinion expressed by any member of the House of Commons. If there was one right better established than another, it was the right, he should rather call it the duty, of the House of Commons to check and to control the House of Lords, when it was assuming to itself any dangerous or unconstitutional power. This was a right repeatedly exercised by this House. In the time of Charles the Second, when the House of Lords attempted to exercise, in the case of Skinner against the East India Company,* an original jurisdiction, the House of Commons interfered, and checked this dangerous assumption of power. He thought, therefore, that the honourable member for Westminster was perfectly justified in the motion he made. He could not, however, support the motion. Agreeing with the member for Middlesex, that the proceedings against the Queen were injurious to the interests of morality, he still thought that, as the poison had been sent forth—as treason had done its worst—that the Queen should be allowed to apply an antidote to that poison: it would be unjust to deprive her of this right; and the more so after the declaration made by her attorney-general, at the last meeting of the House, when a similar motion was made, that the trial must then

* See New Parliamentary History, Vol. 4, p. 422.

go on—that it was too late to recede. But, if gentlemen thought the Queen stood acquitted by the evidence brought against her, still there was another party—the country. It was right that the counsel of the Queen should have an opportunity of showing what was the character of the witnesses brought against her; for if it should appear that they were the dregs of Italy, that they were perfectly unworthy of credit, then the ministers would have incurred a heavy responsibility. The country was looking at the present trial as the trial, not of the Queen merely, but of the ministers. In voting against the motion of the honourable member for Westminster, he did not conceive that, at a future time, he should be precluded from opposing the bill at the very threshold of the House.

Sir *Gerard Noel* declared that he could not reconcile it to his feelings to give quite a silent vote upon this question. He believed that the bill under consideration was altogether without a precedent since the period of the Revolution. The House of Lords had never since that period assumed the kind of jurisdiction which they were now exercising. He had heard with much pleasure the sentiments expressed by many honourable members, and was confirmed in his resolution of opposing the bill in all its stages.

Mr. Alderman *Heygate* said, he was originally of the opinion expressed in the resolution of the House of the 22nd of June last, that the discussion of this affair of the Queen must, in any result, be injurious to the best interests of all the parties. Every thing had since concurred to strengthen this opinion, and to show the impolicy of suspending the business of a great country, on account of the conduct of an individual, and a subject, however exalted in rank. It would not, however, now be fair to stop the proceedings until both sides had been heard in the House of Peers. When that had taken place would be the proper time to pause and consider what course it was best to pursue. In the mean time the honourable alderman deprecated the unconstitutional language used on behalf of the Queen, to induce the army to interfere in political questions—language which, in former times, would have called forth the notice of all who valued the constitution. He called upon every one professing to love freedom to pause before he used, or countenanced even by his silence, such language, and to reflect that the army which might one day be used in behalf of what he thought right, might be turned on the next in favour of despotism. As there was no evil out of which some good might not be extracted, he trusted that what he had alluded to (without intending in the least to doubt the loyalty and fidelity of the British army), coupled with the late military revolutions on the continent, would induce the government to reduce the excessive standing army, and to trust in time of peace to a more constitutional force. By so doing they would indeed strengthen the throne by satisfying the rational and thinking part of the country.

Mr. *Keith Douglas* observed, that the consternation and dismay which had been represented as now prevailing were, in in his opinion, to be ascribed rather to the influence of the press than to the extent of our military establishments. He took a view of our danger somewhat different from that entertained by the worthy alderman who preceded him. Every one who wished well to the prosperity of the country must lament to see the public press so mischievously, so ably, and so successfully labouring, in a way that was not adequately resisted, to inflame discontent, and to increase public alarm. He thought it would be improper for parliament to separate without an understanding that his majesty's ministers had some measures in contemplation for correcting the licence of the press [A loud cry of "Hear hear!" from the Opposition benches]. He might be imperfectly expressing what he meant, but he did see in the evil of which he complained a danger truly alarming. It was far from his wish that the liberties of the country should be curtailed; but the question was, whether some remedy ought not to be applied to a great evil? The case of the Queen was one subject of consideration; but it was brought into connexion with various others, by the journals and publications of the day. The press had assumed a new character; it was conducted with unusual ability, and was incessantly employed in propagating its doctrines. The consequences were evident; they found addresses presented of a new description, coming from large bodies not before accustomed to assemble together for such a purpose. As an instance, he might refer to the address lately carried up to the Queen by a great

number of seamen. The metropolis was upon that occasion thrown into considerable bustle and alarm; but scenes of the same kind were perpetually occurring, and if multitudes were thus frequently brought together, they must be liable to the contagion of bad passions. A meeting was advertised for next Monday, at which probably many thousands would be present; and what he contended for was, that these circumstances were of a nature to excite and perpetuate alarm. To say the least, they were productive of great inconvenience; and he felt it his duty to state the evil, although he might not perceive the best means of redressing it. In his opinion, the government of the country should come forward and assure parliament and the country, that as far as it was in their power—as far as they were in possession of legitimate means—they would exert them for the prevention and suppression of tumult. The well-disposed part of the public might then, perhaps, be relieved from the apprehension of the mischief spreading any further, or of its endangering our institutions.

Mr. *Bernal* wished to make only three remarks. Did the hon. gentleman who spoke last consider that his majesty's ministers had not duly exercised the power entrusted to them, or did he wish them to produce a new edition of the late acts for regulating the press? If there was any danger in what was now going forward, the House of Lords had not shown any apprehension of it; they had imposed no restriction on the publication of the entire proceedings, and had suffered evidence to go forth to the world, which must necessarily have the effect of casting a slur upon the Queen's character. That House would do well to cherish the liberty of the press, and not allow it to be cut down in a by-way. If it was conducted with superior industry and talent, that was an additional reason for pardoning its occasional licence.

Mr. *Hobhouse* observed, that although as a young member he felt diffident in pressing the House to a division, yet the question appeared to him to be so important, that he was placed under the necessity of exercising his right.

The House then divided — For the amendment, 12; against it 66. Majority for the original motion, 54.

List of the Minority.

Bennet, H. G.
Bernal, R.
Coke, T. W.
Creevey, Thos.
Hughes, Colonel
Maberly, J. sen.
Martin, John
Moore, P.
Noel, Sir G.
Osborne, Lord F.
Palmer, C. F.
Whitbread, S.

TELLERS.

Hobhouse, J. C,
Wilson, Sir. R.

Sir *Robert Wilson*, seeing the noble lord opposite in his place, was extremely anxious to ask him a question of some importance, to which he hoped the noble lord would have no objection to return an answer. In doing this, it was necessary for him to state to the noble lord, that a man of the name of Krous had been employed by the Milan commission, as an extra courier (not as the courier of the government), and had, in that capacity, been frequently sent from Milan, on different matters connected with the business of the commission. In proceeding to England, it was understood that this person was arrested in Paris, on the charge of having forged Bank of England notes in his possession to the amount of 310*l*. The notes were sent to England to be examined, and they proved to be forged. When he was apprehended, he was asked, whether he had attempted, when going to England, to pass those notes in Paris? To this interrogatory he made no answer. To a second question he stated that he had received the notes from a person at Milan. An officer of the police was in consequence dispatched, to inquire whether the notes were really given to him by any person in Milan; he being committed to prison till the return of the officer. Now, the question he would ask was this:—It had been confidently stated, that sir Charles Stewart had made repeated and earnest demands to the French government for the release of the individual so charged, and that he was in consequence released; although the police officer, when he returned, stated, that he could not find the person from whom Krous said he had received the notes: he wished therefore to know, whether such an application had been made by sir Charles Stewart, and whether the British government knew of the transaction?

Lord *Castlereagh* said, though he was not able to answer the gallant general's question to its fullest extent, he was happy in having an opportunity of stating what he knew of this business—a statement which he conceived to be due to the individual mentioned. Under the circumstances of the case, his answer

must necessarily be a general one; but he would give the gallant general more detailed information on the subject, if he thought proper hereafter to call the attention of the House to it. He regretted that an opportunity had not occurred in a former debate of giving to the House the explanation he was about to offer. The individual in question was a person who had long been employed in the king's service, when the transaction of different missions required it. Of late, he had been very frequently employed in conveying dispatches from Milan. On one of these journies he was detained in Paris, in consequence of his having notes which were represented to be forged. Sir Charles Stewart did, in consequence, make those representations which he was obliged to make, under the peculiar circumstances of the case. This led to an investigation of the affair; and, as the individual was again employed in the service of government, it would appear that he had been completely justified. The French government withdrew all proceedings against him; and, if he were correctly informed, no stain or suspicion rested on his character. He was glad that the question was asked, because the explanation would set Mr. Krous right with the world. If the gallant general could point out to him any mode by which farther information could be obtained, he would accede to it; and, in justice to Mr. Krous, he would agree that the circumstance should be investigated. He believed that nothing could be adduced detrimental to his character.

Mr. *Whitbread* rose, in conformity with the notice he had given in the early part of the evening, to move, that an account of the sums expended in the prosecution of the Queen be laid on the table, from the earliest period of the six years, when the proceedings were first instituted, down to the present time. At any other period he would have given the notice usual on such occasions; but the peculiar circumstances under which the House had assembled prevented him from adopting that course. Besides, he conceived that not the least opposition could be made to the motion. He was induced to call for this account, in consequence of many reports that had gone abroad, as well as of many statements which had come out in the course of the evidence (with all of which they were acquainted), from which it appeared that some of the witnesses acknowledged that they had received very large sums of money. It was well known to gentlemen, that an account of all monies allowed for the use of the Queen in the course of the present proceedings had been granted elsewhere; and it was, he thought, necessary, that the amount of sums furnished to the other side should also be produced. Indeed, it appeared to him that his majesty's ministers must feel obliged to any person who afforded them an opportunity of removing any portion of the odium which was connected with this filthy proceeding. Many reports, they all knew, had gone abroad as to the immense sums that had been spent in the prosecution of this object; and he wished to know, by means of the account for which he should move, what expense had been incurred by the Milan commission. He thought that the whole of the circumstances connected with this case, in whatever point they were viewed, reflected any thing but honour on this country. He should not trespass farther on their attention, but move, "That there be laid before this House, an account of all sums expended from the period of her majesty's departure from England, in the year 1814, up to the present time, with respect to the proceedings carried on against the Queen of England; including all sums paid to his majesty's ministers at foreign courts, and all sums paid to the commission at Milan."

Lord *Castlereagh* said, if the hon. gentleman had intimated to the House that he merely wished for a statement of the general amount of the public expenditure connected with this matter, although he (lord C.) might consider it not prudent to call for such an account, still he felt that it was one which might have been granted; but certainly, the motion, as it now stood, was extremely unsatisfactory, because the hon. member had not called on the House for a short statement of the expenses incurred by the whole of the proceedings, both those that were necessary in supporting the bill, and those that were called for in opposing it. The hon. gentleman had called for a detailed account, on one side, for the purpose of examining adversely, and criminally, if he pleased, any part of that expenditure which he thought proper. Now, to whatever point the House might hereafter deem it necessary to extend its inquiries, he thought that the present was not a moment for the introduction of an exami-

nation of this subject. He could assure the hon. gentleman that there was no disposition on the part of his majesty's government to withhold proper information from the House. In fairness to his majesty's government he must say, that they were ready to grant any information that could be considered just and reasonable. With respect to the auditing of the account, such an audit, with reference either to the expenditure incurred for or against the Queen, could not take place in that House, on any known and recognised principle. He could, however, assure the hon. member, that there was no part of the expenditure in support of the bill, including even that of the Milan commission, which should not undergo precisely the same description of audit as would be applied to her majesty's expenses. That expenditure ought unquestionably to receive a proper audit, and ministers were ready to submit it to an audit exactly the same as that to which the expenses incurred by the proceedings against the bill would be subjected. But they did not think that that audit should take place in the House of Commons, nor did they contemplate the present as a fit moment for entertaining the subject, when the proceedings were in progress, and the vouchers were not in a proper situation for being audited. He should, therefore, move the previous question.

Mr. *Whitbread* said, he had stated that he was induced to make this motion in consequence of an account that had been applied for in another House, relative to the expenses incurred on the part of the Queen, which they all knew must be a mere trifle when compared with the sum expended in support of the bill. If this were not a proper and convenient time to ask for an account of the sums issued in supporting the bill, he could not imagine how it could be a proper and convenient time for granting an account of the expense incurred in defending the Queen.

Lord *Castlereagh* said, he had no objection to laying the gross amount of the expenditure on the table of the House; but he believed it was not the intention of the hon. member to enter into the question of the general expenditure, but, as he understood him, to examine the expenditure in detail, and to object to some part of it. He would not press the previous question, but move for an account of the gross expenditure, as far as the same can be made up.

Mr. *Bennet* wished to ask the noble lord from what fund these sums of money had been drawn. The noble lord had said, on a former occasion, that the duke of Cornwall had a right to inquire into the conduct of his wife. Now, if he had a right to inquire into the conduct of the duchess of Cornwall, he (Mr. B.) conceived he had also a right to pay the expenses. He hoped the right hon. gentleman, or the noble lord would inform the House from what fund, whether large or small, the expenses of this inquiry were to be paid?

Lord *Castlereagh* said, that the expenses which had been incurred abroad were properly charged out of the secret-service money; but from the moment the investigation assumed the character of a public inquiry, it would be charged among the civil contingencies. His majesty's ministers were prepared to submit all the items charged out of the secret-service money to the same audit as every other part of the expenditure.

Mr. *Hume* said, it was fresh in his recollection, when the vote for secret-service money was last before that House, that he put a question to the noble lord, having at that time in his mind the expenditure of the Milan commission. He had stated the great amount of the vote demanded, and the answer he had received, to the best of his remembrance, was this—the noble lord had said that the House must be aware that, during a long war, expenses would be incurred, chargeable on the secret-service money, which would not end at the termination of hostilities, but must be provided for during some time after. From this answer, he did not think that any part of the secret service money could be intended for the Milan commission; because the question was expressly put, in order to ascertain whether it was possible for his majesty's government, consistently with their oath, to take sums out of that fund for such a service? Now, however, to his utter astonishment, he found that they did make use of a part of that money, notwithstanding their oath, to effect this dirty purpose.

Lord *Castlereagh* said, if he recollected rightly, the hon. member had asked him a question as to the gross amount of such secret-service money for the year. He had observed, "Why, as you are now at peace, is there a necessity to call on parliament for so large a sum on account of secret services?" and he (lord C.)

had stated in answer, that though the country was at peace, charges had grown out of the latter part of the war, which it was necessary to provide for. Now, with respect to the sum paid out of the secret-service money on account of the Milan commission, the hon. member would find it by no means so large as he imagined. The sum distributed over the two years prior to the public proceedings in this case, was either 9,000*l.* or 10,000*l.*; and he did not know from what fund it could be more properly supplied than from the secret-service money. It was necessary to carry on the inquiry abroad, and the proceeding was one which, from its peculiar character, rendered the expense the more fit to be defrayed in that manner, in order to avoid publicity; and to give effect to the inquiry, the secret-service money appeared to him to be precisely the fund out of which the expense should come.

Mr. *Maberly* said, he was desirous to know, as the noble lord had stated that one part of the proceeding was to be defrayed out of the secret-service money, from what fund his majesty's ministers intended to pay the residue of the expense? There had been no grant made by parliament, and he knew not from what fund he could take that money.

Lord *Castlereagh* said, that after the period had elapsed when the expenses had ceased to be defrayed from the secret-service money, bills had been drawn by the commission abroad, and answered by the foreign office. They would of course be sanctioned by the Treasury.

Mr. *Maberly* replied, that this was a most dangerous mode of proceeding, and contrary to the usage of that House. If ministers had a right to take 1,000*l.* in that way, by the same rule they might issue 1,000,000*l.*, or any sum they pleased. The answer of the noble lord was not therefore a satisfactory one. The more proper and constitutional mode of proceeding would be, to take a vote of that House for whatever sum they might find necessary.

Mr. *Huskisson* observed, that the proceeding in this case was of the same nature as what took place with respect to the army extraordinaries. They consisted of items which had not been foreseen, and could not therefore be made matter of estimate in the first instance. The mode pursued was, to take a vote for a certain sum; and, in the next session of parliament, the items under that head were laid before the House. In this instance, he thought that the expenses incurred might as properly be paid out of the civil contingencies, as matters that were connected with the defence of the kingdom. As to the law expenses, there might, but he could not speak positively on the subject, be another fund from which they might be defrayed; because a large sum had been voted to defray law expenses of a public nature.

Mr. *Creevey* said, there was a difference between the explanation by the noble lord and that which had been offered by the right hon. gentleman. The former had pointed to the secret-service money as the fund from whence the expenses were to be defrayed; while the latter spoke of the civil contingencies. Be that, however, as it might, it was clear that, if the money were to be granted out of any public fund, ministers ought to come with some proposition to parliament on the subject. He was sure that the noble lord's construction of the act by which the secret-service money was regulated was not correct. If it were, if ministers could take such sums of money as those that had been mentioned, from that fund, under the plea that this proceeding came within the meaning of secret service, the most dangerous consequences might follow. If, when his majesty chose to follow his wife abroad, and to make efforts to procure evidence against her, such a proceeding, could be supposed to come under the act, as one, the expenses of which should be defrayed out of the secret-service money, it was time that the act should be revised, and that some means should be devised by parliament to prevent such an abuse of that fund. With respect to his hon. friend's motion, of course, he would only be able to procure the gross amount of the expenditure. But here he might be allowed to observe that, if the bill did not come to this House, it would then be a mere private business; there would be no claim whatever on that House to make good the expense. What then would ministers do? The only course left them would be, to apply to the king's private purse—a course which, he believed, they would not very readily pursue.

Mr. *Bennet* wished to know, at what precise period the noble lord deemed the proceeding to be one to which secret-service money was no longer applicable.

Lord *Castlereagh* said, the proceeding became of a public nature from the time the message was sent down to both Houses of Parliament. The sums taken from the fund for secret service would be laid before parliament in the same manner as the expenses incurred for the defence of her majesty.

Mr. *Hume* wished to know whether the Milan commission had acted from the outset under the sanction and with the approbation of his majesty's government?

Lord *Castlereagh* said, it had the full knowledge and approbation of his majesty's ministers from the beginning. It was adopted in order to prepare for carrying on the proceeding in its present form, if the charges were gravely supported; and, on the other hand to set the matter at rest if they were found to rest on no solid foundation.

Sir *Gerard Noel* said, his decided opinion was, that the House would act criminally, if it consented to burthen the public with one shilling of the expense.

Lord *Castlereagh* said, he was ready to agree to a motion for an account of the expenses incurred on both sides in the proceeding now pending against the Queen, as far as the same could be made out.

Mr. Whitbread accordingly withdrew his motion, and the motion suggested by lord Castlereagh was put and agreed to.

BILL OF PAINS AND PENALTIES—PETITION FROM MONTROSE.] Mr. *Hume* rose, to present a petition from the burgh of Montrose deprecating the proceedings that were now in progress against her majesty. He could not avoid expressing his surprise at the observations of an hon. gentleman (Mr. K. Douglas), who, in the course of his speech, had called on his majesty's ministers to devise some means by which the liberty of the press might be checked, and by which the demonstration of public feeling, manifested at different meetings convened for the purpose of addressing her majesty, might be prevented. The respectable body whose petition he held in his hand, had met, and had addressed her majesty; and honourable members had not, he conceived, any right to condemn them or others for pursuing that line of conduct. In his opinion, those who assembled on such an occasion, to express their feelings, deserved praise instead of censure; they acted in an open and honourable manner, and he trusted that such feelings would never be banished from England. When any thing like injustice appeared to be in progress, he hoped it would not be suffered to pas unnoticed by the people. If the hon. gentleman wished to know the reason of those meetings—if he wished to learn why sentiments of indignation were expressed at them, it was because the people were conscious that much injustice had been done to her majesty; they felt it deeply, and he hoped they would continue to express their opinions. With regard to the press, was it not extremely strange that an attack should be suddenly made against the liberal part of it? Ministers had funds in their hands, which, he believed, were given, in various ways, to that portion of the press by which they were supported. And, when he was touching on this subject, he would refer to an accusation that had been recently made—whether it was true or not he could not tell—which referred to this very point. A charge had been made, and it was said that it could be substantiated by several persons of credit, that part of his majesty's plate—part of that plate which originally belonged to the Queen—had been seen at the table of Mr. Street, the late editor of the Courier newspaper. He hoped, for the honour of the country, that no such thing had taken place. Such an accusation ought to meet a flat denial on the moment, for the credit of the government. It had been said on a former occasion, by a learned gentleman, that it was not in the power of his majesty to give away a single piece of that plate, without the advice and concurrence of his ministers. If, then, it had been so disposed of, the whole responsibility of the act rested with them. With respect to any fear that might be entertained from numbers of persons going up to her majesty with addresses, he could certainly remove any apprehension from the hon. gentleman, if he alluded to the presentation of the address fixed for Monday, for the persons who were to compose the procession then, were to go up in coaches and four. From such persons there need surely be no danger to be apprehended. With respect to the procession of seamen, he certainly saw it, and observed nothing among the crowd, but the most peaceable demeanor. The same was indeed the case at all the meetings which had been held, and their conduct reflected the highest credit upon them. The petition

which he was now about to present was from the provost, magistrates burgesses of guilds, and others of the borough of Montrose. It was unanimously agreed to; and he feared, from the present constitution of the Scotch burghs, self-elected as the principal persons in them were, this was the only unanimous petition which her majesty was likely to receive from that quarter. The very mode of their constitution was fatal to public spirit. The petitioners did not pronounce upon the guilt or innocence of the Queen; but they looked with terror and dismay to the principle of the bill of Pains and Penalties now brought against her, which they considered subversive of public liberty. His own opinion was too well known to require repetition. He concurred entirely in the sentiments contained in the petition, and thought no man could uphold such a system of *ex post facto* law without endangering the constitution. He envied not the man who entertained a contrary opinion. The petitioners also prayed that, if the bill was sent from the Lords to that House, they should instantly reject it.

Mr. *Keith Douglas* said, in explanation, that the hon. gentleman must have entirely mistaken what he had said. He had never complained of the proper expression of the public feelings, nor of the constitutional exercise of the liberty of the press—he had merely said, that he thought the press was now exercised in an undue manner, and for a purpose which seemed as if it was intended to intimidate parliament and the country from adopting any measure which partook of a particular character. To attempt such intimidation, pending the agitation of a great public question, was, he thought highly unconstitutional. For his own part, he thought it right, as a member of parliament, to say, that no undue influence should deter him from the strict discharge of his public duty. With respect to the mode of presenting the addresses to which he alluded, he meant merely to say, that it was very unusual to assemble the people in such numbers to go up in bodies with addresses. The appearance of such crowds was certainly alarming.

Mr. *Huskinson* rose, to give some explanation respecting that part of the hon. gentleman's speech in which he stated that the person who was lately the editor of the Courier had received a present of the service of plate formerly in the possession of the princess of Wales. On this subject he rather imagined the hon. gentleman made an allusion to what had fallen from him on a former occasion respecting Crown plate. On that occasion he certainly had said that the plate used by the princess of Wales, being plate belonging to the Crown, could not be alienated from it by the personal act of the king, without the approbation and signature of his majesty's responsible advisers. The hon. gentleman seemed to assume that some of this plate had been given to the late editor of the Courier, and he inferred, that the act of giving it was highly irregular and improper. If the facts were, indeed, as the hon. gentleman seemed to think they were, then he should be most ready to concur with him in saying that it was the most irregular and censurable proceeding which could possibly have taken place. But the rumour was utterly unfounded [Hear]. He had inquired of his right hon. friend if any appropriation had taken place of the plate used by the princess of Wales at Kensington-palace, since it had been deposited with the lord chamberlain; and the answer was just as he expected—that no appropriation whatever of that plate had since taken place. The fact was, as he had on the former occasion stated, that no plate purchased for the use of the Crown, or for that of any of the members of the royal family, out of the civil list money, could be given away by the Crown as a present, without a formal assignment, sanctioned by the proper responsible officers. No part whatever of the plate alluded to had been appropriated as the hon. member seemed disposed to think, and it was now, as he understood, in the lord chamberlain's custody, to be applied as usual wherever it might be wanted for the use of the royal family. If the hon. member asked, whether the late editor of the Courier had any plate presented to him which bore the decoration of the royal arms, he (Mr. Huskisson), not having the pleasure of any acquaintance with that gentleman, could not answer; all he could say was, that he might have such plate without its being drawn from the stores in the lord-chamberlain's department, or from the Crown plate. The report of the transfer of the plate alluded to was certainly quite unfounded.

Mr. *Hume* expressed himself satisfied with the explanation of the right hon.

gentleman. He was glad to hear that the plate used by the princess of Wales still remained with the lord chamberlain; but was it ever out of his possession since the princess had it?

Mr. *Huskisson* replied, certainly not.

The petition was ordered to lie on the table.

Portugal.] Mr. *Hume* begged to put a question to the noble lord opposite, on the subject of the affairs of Portugal. Rumours were prevalent out of doors, that a large armament was about to be sent out from this country to Portugal, and that additional corps of yeomanry and militia were to be immediately provided to do the duty of the regular troops, who were to be called upon foreign service. These steps were, it was said, to be taken in consequence of the recent political occurrences in Portugal; and the effect of the rumour was to be seen in the depression and fluctuation of the funds. It was for the purpose of removing this alarm that he rose to ask the noble lord, whether he had any official information from Portugal respecting the recent events to which he alluded; and whether there was any ground for the alarm which was felt in the monied market?

Lord *Castlereagh* thought it not quite regular, upon the prevalence of such rumours as those to which the hon. gentleman alluded, to put formal questions to his majesty's ministers. To encourage such questions would, he thought, tend more to perplex the business of the country, than to assist its course. It was most unreasonable to ask him to pronounce any opinion upon transactions respecting which he had at present hardly any information. He trusted the hon. gentleman would deem this a sufficient answer, in the absence of any official information upon the subject.

Bill of Pains and Penalties.] Mr. Brogden brought up the Report of the Committee appointed to inspect the Lords Journals, with relation to the present state of any proceedings had respecting the Bill of Pains and Penalties against her Majesty. The report having been read,

Lord *Castlereagh* moved, that the House should at its rising adjourn to Tuesday the 17th of October. By that day he calculated the House would be able to determine from the proceedings of the other House, to what farther period it might be expedient to adjourn. If the Bill of Pains and Penalties should come down from the other House, it would be obviously desirable that that House should be called over, with a view to render the attendance as full as possible; and, therefore, he thought it proper to mention his intention to propose that the House should be called over early in November. This he stated now, in order that members might be in readiness to attend within the period of three weeks after the day to which his present motion referred.

Mr. *Hume* asked, whether the noble lord had received any communication as to the probable extent of the defence for the Queen, or what time it was likely to occupy? Because, if the noble lord had had no such information, he might be proposing to assemble the House to no purpose, but merely that of a further adjournment.

Lord *Castlereagh* observed, that he wished the House to be left open for the exercise of its own discretion as to the period of any farther adjournment. If the bill of Pains and Penalties should be brought down from the other House, it was his present intention to move a further adjournment to the 5th or 10th of November, and that the House should be then called over.

Mr. *Hume* repeated, that the more distant period would be the more advisable, because it would be more certain.

Lord *Castlereagh* still thought a previous meeting advisable to fix the precise time of taking the discussion which they could on the 17th better determine than now. This was a proceeding of too much delicacy to be left standing over; they ought, therefore, to watch its progress, and then determine, should the bill come before them, the earliest possible time when they could devote themselves to it.

Sir *Gerard Noel* could not think what the noble lord meant when he talked of delicacy in this business. Surely he did not mean to say that his majesty's ministers had treated the House with delicacy. On the contrary they had treated the House just as a huntsman did a pack of hounds—they turned them out, and whipped them in, just as they wanted them.

Lord *Francis Osborne* begged for some explanation from the noble lord opposite

on the subject of the separation of the divorce part of the bill, which had been alluded to by a noble earl (Liverpool) in the other House. It was intimated in the place to which he alluded, that the divorce clause would be abandoned if any religious feeling pervaded the country upon that part of the bill. He was anxious for some explanation of the intention of ministers upon that point. At present, he was quite at a loss to understand the course they meant to pursue. He could perfectly understand the degradation of the Queen now, for acts done when she was princess of Wales so long as her case was within the sphere of the statute of Edward 3rd; but, the moment she was taken out of the operation of that statute, her acts were no longer, strictly speaking, those of the princess of Wales, she became reduced to the level of an ordinary woman. How, then, could the acts of a person placed under such circumstances be said to affect her character as Queen? Suppose, for the sake of argument, that a princess of Wales had been guilty of a thousand acts of levity, it did not therefore follow that she would not make a good queen. How many kings had there not been who had departed from the line of conduct they pursued in the earlier period when they were princes? Take, for instance, the example of Henry 5th, and of others whose names were to be found in history. In his opinion, if the princess of Wales was once taken out of the statute of Edward, she became reduced to the station of an ordinary woman and the acts then ascribed to her could not be said to degrade her as Queen. He thought it very important that the divorce point should be cleared up with as little delay as possible.

Lord *Castlereagh* regretted his inability to enter into the legal construction of the statute of Edward with the noble lord, but he thought it obvious that the bill, as at present framed, had two purposes—the one affecting her majesty's rights as Queen and the other enacting a divorce. What he understood his noble friend (the earl of Liverpool) to have stated elsewhere was this—that there was no intention whatever of acting in opposition to any religious feeling which might be excited; and that the part of the bill which went to the divorce need not be pressed, as the measure was disclaimed for the purpose of affording any personal remedy. Upon public and not upon personal grounds its necessity was to be considered. In the present stage of the proceedings elsewhere, it was obviously impossible for him to give the noble lord the explanation he required. There was no person competent indeed to give it as the bill was entirely open for consideration in the other House of Parliament.

Adjourned till Tuesday the 17th of October.

HOUSE OF LORDS.

Tuesday, October 3.

Their lordships met, pursuant to adjournment, and the House was called over.

COLONEL BROWNE AND M. MARRIETTI.] The Earl of *Liverpool* rose. He observed, that he felt it his duty to offer some explanation respecting a transaction upon which a good deal of conversation had taken place when they last met on this case. He alluded to a conversation respecting a letter which was stated to have been addressed to a Mr. Marrietti in this country, from his father at Milan. When the subject was mentioned at the period to which he alluded, he stated that he had been privately informed of the existence of this letter, and of the nature of its contents. Upon receiving that information, he had felt it his duty to desire that a letter should be written to colonel Browne, calling upon him to explain any thing which he might know of the circumstance. He had now in his possession a correspondence which had taken place in consequence of the compliance with his desire, which, with the permission of the House he would read.—[The noble earl then proceeded to read the correspondence which is inserted below.] The noble earl having finished the reading of the papers, said he had felt it his duty to submit them to the House, lest any doubt might arise as to any point in this transaction calculated to excite an undue impression. From their contents it would be seen that colonel Browne was so far conscious that he had acted consistently with his duty, that he courted any further explanation or investigation into his conduct that their lordships might think necessary. The papers he held in his hand, might, if it was their lordships pleasure, be laid on the table.

Lord *Holland* said, that supposing every part of the assertions contained in the correspondence was true, and that nothing

either directly or indirectly, had passed relating to the Alien bill, it did not remove his objections to the bill. The letters that had been read confirmed the report of the alarm which the existence of such a power created. He must say, that the statement that had been made had not completely satisfied his mind, nor indeed could any *ex parte* declaration, that nothing had passed on the subject, be so received by him. Colonel Browne had said he wished to be further examined; but no satisfactory opinion could be formed unless all the parties concerned were fully examined, and every particular minutely investigated. Every man felt that great apprehension was excited at the idea of the Alien bill; and although it was stated that nothing had passed relating to it; yet it was evident that some conversation had been held by Mr. Marrietti with a clerk employed officially by his majesty's government.

The Earl of *Liverpool* said, that in consequence of what had fallen from the noble lord, he should now feel it his duty to lay the papers on the table of the House.

The Earl of *Lauderdale* thought the House ought to be put in possession of the original letter of the elder Mr. Marrietti.

The Papers were then laid on the table. The following are Copies of the said Papers:

Letter from Lieutenant Colonel Browne with three Inclosures.

Copy of a Letter from Lieutenant Colonel Browne to the Earl of Clanwilliam, dated Milan, September 20th, 1820; explanatory of the allusions made to the name of Lieut. Colonel Browne in Mr. Marrietti's letter to his son, with three inclosures.

Milan, 20th Sept. 1820.

My lord;—I have received your lordships letter of the 5th inst. written to me by direction of viscount Castlereagh.

Perhaps the best reply I could make to its contents would be, that I had never spoken one syllable to the father of Mr. Joseph Marrietti on the subject of his son's conduct in London.

I remember, however, that some time since one of the clerks of the respectable banking-house of which Mr. Marrietti is the head, having called upon me to settle some accounts, I mentioned to him my having heard from London that the younger Marrietti had visited Mr. Sacchini, and had made inquiries into the nature of the evidence he had formerly given. I added, that such occupation appeared to me very unnecessary, as information of that nature could not possibly be interesting to a person whose pursuits were quite of a different tendency.

I made this remark with so much indifference, and, in fact, considered the affair of so little importance, that it never again entered my thoughts. In consequence, however, of your lordship's letter, I wrote immediately to Mr. Albertoni (the name of the clerk to whom I thus casually mentioned the matter) a letter of which the inclosure No. I is a copy, and received from him an instant reply, of which No. 2 is the original.

Mr. Marrietti himself, the father of the young man in question, on learning the interpretation that had been given to the letter which he had written in confidence to his son, addressed to me the letter of which No. 3 is also the original.

I trust, when these papers shall have been submitted by your lordship to his majesty's government. I shall stand acquitted of having so far forgotten my situation and character, as to have ventured an unauthorized and powerless menace against a respectable individual under their protection, the employment of which would not only have been decidedly contrary to the spirit and letter of my instructions, but injurious to the interests of justice itself, before whose tribunal I shall be ever forward to render the strictest account of the delicate and painful duty which has been confided to me. I have the honour to be, &c.

(Signed) J. H. Browne.

The Right hon. the Earl of
Clanwilliam, &c. &c. &c.

No. I.—Translation of a Letter from Colonel Browne to Mr. Albertoni.

Milan, 17th Sept. 1820.

Sir—A letter written by Mr. Marrietti to his son, who is in London, seems to have created a belief that I had so far forgotten my duty and character as to have threatened the latter with being placed under the surveillance of the British police, and even with an intention on the part of the British government to compel him to quit England under the operation of the Alien bill, in consequence of some communications which he had with M. Sacchini, a witness against the Queen.

Having never conversed with Mr. Marrietti, his father, on this subject, nor with any one, except yourself one morning when you were at my house settling some accounts, I beg you will have the goodness to declare to me, explicitly and by letter, all you can recollect on this subject, and to detail it as truly and fairly as possible.—Accept, &c.

(Signed) J. H. Browne.

To Mr. Albertoni, at Messrs. Marrietti, brothers, bankers, Milan.

No. II.—Translation of a Letter from M. Albertoni to Lieutenant Colonel Browne.

Milan, Sept. 17, 1820.

Sir—It is with regret equal to the respect which I feel towards you, that I have just learnt that the meaning of a letter written by M. Marrietti to his son has been so misunderstood as to cause to be imputed to you the communication of an intention on the part of the British government to place the latter under surveillance, or to order him to quit England, on account of some conversations he had held with Mr. Sacchini, a witness against the Queen.

I recollect your having told me one morning, when I happened to call upon you on business, that you had heard from England that our M. Joseph Marrietti had interfered in this affair, and that you could not but consider such conduct as indiscreet, and foreign to his business in London. I well remember that I considered this communication to be simply your own private opinion, and far from being an expression from authority or a menace. As to what has been asserted with regard to the Alien bill, the provisions of which are wholly unknown to me, it is a duty I owe to your open and honourable character upon all occasions, to declare explicitly that you have never given me the slightest reason to be apprehensive for the personal safety or protection of our Mr. Joseph Marrietti. I ought to add, that I have thought it my duty to beg the father of the said J. Marrietti to write to his son, and advise him not to interfere in an affair so unconnected with his occupations, and to observe that wise and discreet line of conduct for which he has ever been distinguished. If in writing to him his father made use of strong expressions, it is not to you, Sir, that they are to be attributed, but to that confidence and paternal affection alone by which they were dictated.—Pray accept the sentiments of esteem with which, &c.

(Signed) Albertoni, of the House of P. and J. Marrietti.

No. III.—Translation of a Letter from M. Marrietti to Lieutenant Colonel Browne.

Milan, 19th Sept. 1820.

Most esteemed Colonel—I have heard with particular regret that your name has been compromised on the subject of a conversation which has been supposed to have taken place between you and me relating to my son Joseph, at present in London; I therefore consider it my duty to declare, as I do declare upon my honour, that no conversation ever took place between you and me directly upon such subject.

If the expressions contained in my letter to my son be rather strong, it is to be attributed to my wish that a lively impression should be made upon him by advice on my part, tending to prove to him the necessity of his adhering to the system pursued by myself, never to interfere with affairs unconnected with his own business. I am beyond measure concerned, that a construction should have been put upon my letter directly contrary to my intentions, a construction which has furnished matter for discussions totally inconsistent and ill-founded. My regret on this occasion is increased, on observing that such a construction should have given rise to any doubts as to the conduct of an individual whose distinguished and honourable character has been, from long experience, well known to me: I consider you, Sir, as incapable of using the threats attributed to you, as your government of carrying them into execution. In thus making known to you the sentiments by which I am animated on this occasion, I have the agreeable satisfaction of fulfilling a duty incumbent upon me; and I avail myself of the opportunity to assure you of my perfect esteem, &c.

Luigi Marrietti.

To Lieut. Colonel Browne, &c. &c.

Bill of Pains and Penalties against Her Majesty.] The order of the day being read for the further consideration and second reading of the bill, intituled "An Act to deprive Her Majesty Caroline Amelia Elizabeth of the title, prerogatives, rights, privileges, and exemptions of Queen Consort of this realm, and to dissolve the marriage between his majesty and the said Caroline Amelia Elizabeth;" and for hearing counsel for and against the same; Counsel were accordingly called in.

Then Mr. Brougham, the Attorney-General of the Queen, opened the

DEFENCE OF HER MAJESTY.

Mr. *Brougham*—

May it please your Lordships—

The time is now come when I feel that I shall truly stand in need of all your indulgence. It is not merely the august presence of this assembly which embarrasses me; for I have oftentimes had experience of its condescension—nor the novelty of this proceeding that perplexes me; for the mind gradually gets reconciled to the strangest things—nor is it the magnitude of this cause that oppresses me; for I am borne up and cheered by that conviction of its justice, which I share with all mankind; but, my lords, it is the very force of that conviction, the knowledge that it operates universally, the feeling that it operates rightly, which now dismays me with the apprehension,

that my unworthy mode of handling it, may, for the first time, injure it; and, while others have trembled for a guilty client, or been anxious in a doubtful case, or crippled with a consciousness of some hidden weakness, or chilled by the influence, or dismayed by the hostility, of public opinion, I, knowing that here there is no guiltiness to conceal, nor any thing, save the resources of perjury to dread, am haunted with the apprehension, that my feeble discharge of this duty may for the first time cast that cause into doubt, and may turn against me for condemnation those millions of your lordships countrymen, whose jealous eyes are now watching us, and who will not fail to impute it to me, if your lordships should reverse the judgment which the Case for the Charge has extorted from them. And I feel, my lords, under this weight so troubled, that I can hardly at this moment, with all the reflection which the indulgence of your lordships has accorded to me, compose my spirits to the discharge of my professional duty, under the weight of that grave responsibility which accompanies it. It is no light addition to this feeling, that I foresee, though at some distance, happily, that, before these proceedings close, it may be my unexampled lot to discharge a duty, in which the loyalty of a good subject may, among the ignorant, among the thoughtless—certainly not with your lordships for a moment—suffer an impeachment.

My lords; the princess Caroline of Brunswick arrived in this country in the year 1795—the niece of our sovereign, the intended consort of his heir apparent, and herself not a very remote heir to the crown of these realms. But I now go back to that period, only for the purpose of passing over all the interval which elapsed between that arrival and her departure in 1814. I rejoice that, for the present at least, the most faithful discharge of my duty permits me to draw this veil; but I cannot do so without pausing for an instant, to guard myself against a misrepresentation to which I know this cause may not unnaturally be exposed, and to assure your lordships most solemnly, that if I did not think that the cause of the Queen, as attempted to be established by the evidence against her, not only does not require recrimination at present—not only imposes no duty of even uttering one whisper by way of attack, by way of insinuation, against the conduct of her illustrious husband—but that it prescribes to me, for the present, silence upon this great and painful head of the case—I solemnly assure your lordships, that but for this conviction, my lips on that branch would not be closed; for, in discretionally abandoning the exercise of that power which I feel I have, in postponing for the present the statement of that case of which I am possessed, I feel confident that I am waving a right which I have, and abstaining from the use of materials which are mine. And let it not be thought, my lords, that if either now I did conceive, or if hereafter I should so far be disappointed in my estimate of the failure of the Case against me, as to feel it necessary to exercise that right—let no man vainly suppose, that not only I, but that any, the youngest member of the profession would hesitate one moment in the fearless discharge of that duty. I once before took leave to remind your lordships—which was unnecessary, but there are many whom it may be needful to remind—that an advocate, by the sacred duty of his connection with his client, knows, in the discharge of that office, but one person in the world, that client and none other. To save that client by all expedient means—to protect that client at all hazards and costs to all others, and among others to himself—is the highest and most unquestioned of his duties; and he must not regard the alarm, the suffering, the torment, the destruction, which he may bring upon any other; nay, separating even the duties of a patriot from those of an advocate, he must go on reckless of the consequences, if his fate it should unhappily be, to involve his country in confusion for his client.

But, my lords, I am not reduced to this painful necessity. I feel that if I were to touch that branch of the Case now, until any event shall afterwards show that unhappily I am deceiving myself—I feel that if I were now to approach that branch of the Case, I should seem to give up the higher ground of innocence on which I put it; I should seem to be justifying when I plead not guilty; I should seem to argue in extenuation and in palliation of offences, or levities, or improprieties, the least and the lightest of which I stand here to deny. For it is false, as has been said—it is foul and false as those who dared to say, who, pretending to discharge the higher duties to God, have shown, that they know not the first of their duties to their fellow-creatures—it is foul and false

and scandalous in those who have said (and they know that it is so who have dared to say it), that there are improprieties admitted to be proved against the Queen. I deny that the admission has been made. I contend that the evidence does not prove them. I will show you that the evidence disproves them. One admission, doubtless, I do make; and let my learned friends who are of counsel for the Bill take all the benefit of it, for it is all that they have proved by their evidence. I grant that her majesty left this country, and went to reside in Italy. I grant that her society was chiefly foreign. I grant that it was an inferior society to that in which she once moved in this country. I admit, my lords, that while here, and while happy in the protection—not perhaps, of her own family, after the fatal event which deprived it of its head; but while enjoying the society of your lordships and the families of your lordships, I grant that the Queen moved in a more choice, in perhaps a more dignified society, than he did in Italy. And the charge against her is, that she has associated with Italians, instead of her own countrymen and countrywomen; and that, instead of the peeresses of England, she has sometimes associated with Italian nobility, and sometimes with persons of the commonalty of that country. But, who are they that bring this charge? Others may accuse her—others may blame her for going abroad—others may tell tales of the consequences of living among Italians, and of not associating with the women of her country, or of her adopted country; but it is not your lordships that have any right to say so. It is not you, my lords, that can fling this at her majesty. You are the last persons in the world—you, who now presume to judge her, are the last persons in the world so to charge her; for you are the witnesses whom she must call to vindicate her from that charge. You are the last persons who can so charge her; for you, being her witnesses, have been also the instigators of that only admissible crime. While she was here, she courteously opened the doors of her palace to the families of your lordships. She graciously condescended to mix herself, in the habits of most familiar life, with those virtuous and distinguished persons. She condescended to court your society—and, as long as it suited purposes not of hers—as long as it was subservient to views not of her own—as long as it served interests in which she had no concern—she did not court that society in vain. But when changes took place—when other views arose—when that power was to be retained which she had been made the instrument of grasping—when that lust of power and place was to be continued its gratification, to the first gratification of which she had been made the victim—then her doors were opened in vain; then that society of the peeresses of England was withholden from her; then she was reduced to the alternative humiliating indeed, for I say that her condescension was no humiliation. She was only lowering herself, by omitting the distinction of rank to enjoy the first society in the world. But then it pleased you to reduce her to what was really humiliation—either to acknowledge that you had deserted her, to seek the company of those who now made it a favour, which she saw they unwillingly granted, or to leave the country and have recourse to other company. I say then, my lords, that it is not here that I must be told—it is not in the presence of your lordships I must expect to hear any one lift his voice to complain, that the princess of Wales went to reside in Italy, and associated with those whose society she neither ought to have chosen, nor perhaps would have chosen—certainly would not have chosen—perhaps I may say ought not to have chosen—had she been in other or happier circumstances.

In the midst of this, and of so much suffering as to an ingenuous mind such conduct could not fail to cause, she still had one resource, and which, for a space, was allowed to remain to her—I need hardly say I mean the comfort of knowing that she still possessed the undiminished attachment and grateful respect of her justly respected and deeply lamented daughter. An event took place which, of all others, most excites the feelings of a parent—that daughter was about to form a union upon which the happiness—upon which, alas! the Queen knew too well how much the happiness—or the misery of future life depended. No announcement was made to her majesty of the projected alliance. All England occupied with the subject—Europe looking on with an interest which it certainly had in so great an event—England had it announced; Europe had it announced—but the one person to whom no notice of it

was given, was the mother of the bride who was to be espoused; and all that she had done then to deserve this treatment was, with respect to one of the illustrious parties, that she had been proved, by his evidence against her, to be not guilty of the charge; and, with respect to his servants, that they had formerly used her as the tool by which their ambition was to be gratified. The marriage itself was consummated. Still, no notice thereof was communicated to the Queen. She heard it accidentally by a courier who was going to announce the intelligence to the Pope, that ancient, intimate, much-valued ally of the Protestant Crown of these realms. A prospect grateful to the whole nation, interesting to all Europe, was now afforded, that the marriage would be a fruitful source of stability to the royal family of these realms. The whole of that period, painfully interesting to a parent as well as to a husband, was passed without the slightest communication; and if the princess Charlotte's own feelings had prompted her to open one, she was in a state of anxiety of mind and of delicacy of frame, in consequence of that her first pregnancy, which made it dangerous to have a struggle between power and authority on the one hand, and affection and duty on the other. An event truly fatal followed, which plunged the whole of England into grief and gloom; in which all our foreign neighbours sympathized: and while, with a due regard to the feelings of those foreign allies, and even of strange powers and princes, with whom we had no alliance, that event was speedily communicated by particular messengers to each, the person in all the world who had the deepest interest in that event—the person whose feelings, above those of all the rest of mankind, were most overwhelmed and stunned by it, was left to be stunned and overwhelmed by it accidentally; as she had, by accident, heard of the marriage. But, if she had not heard the dreadful news by accident, she would, ere long, have felt it; for the decease of the princess Charlotte was communicated to her mother, by the issuing of the Milan Commission and the commencement of the proceedings for the third time against her character and her life.

See, my lords, the unhappy fate of this illustrious woman! It has been her lot always to lose her surest stay, her best protector, when the dangers most thickened around her; and, by a coincidence almost miraculous, there has hardly been one of her defenders withdrawn from her, that his loss has not been the signal of an attack upon her existence. Mr. Pitt was her earliest defender and friend in this country. He died in 1806; and, but a few weeks afterwards, the first inquiry into the conduct of her royal highness began. He left her a legacy to Mr. Perceval, her firm, dauntless, most able advocate. And, no sooner had the hand of an assassin laid Mr. Perceval low, than she felt the calamity of his death, in the renewal of the attacks, which his gallantry, his skill, and his invariable constancy had discomfited. Mr. Whitbread then undertook her defence; and, when that catastrophe happened, which all good men lament, without any distinction of party or sect, again commenced the distant grumbling of the storm; for it then, happily, was never allowed to approach her, because her daughter stood her friend, and there were who worshipped the rising sun. But, when she lost that amiable and beloved daughter, all which might have been expected here—all which might have been dreaded by her if she had not been innocent—all she did dread—because, who, innocent or guilty, loves persecution; who delights in trial, when character and honour are safe?—all was at once allowed to burst upon her head; and the operations commenced by the Milan Commission. And, my lords, as if there were no possibility of the Queen losing a protector without some most important act being played in this drama against her, the day which saw the venerable remains of our revered sovereign consigned to the tomb—of that sovereign who, from the first outset of the princess in English life, had been her constant and steady defender—that same sun ushered the ringleader of the band of perjured witnesses into the palace of his illustrious successor! Why, my lords, do I mention these things? Not for the sake of making so trite a remark, as that trading politicians are selfish—that spite is twin-brother to ingratitude—that nothing will bind base natures—that favours conferred, and the duty of gratitude neglected, only make those natures the more malignant. My lords, the topic would be trite and general, and I should be ashamed to trouble your lordships with it; but I say this once more, in order to express my deep sense of the unworthiness with which I now succeed such powerful defenders, and

my alarm lest my exertions should fail to do what theirs, had they been living, must have accomplished.

My lords; I pray your attention for a few moments, to what all this has resulted in. It has ended in the getting up of a story, to the general features of which I am now first about to direct the attention of your lordships. But I must begin by praying you to recollect what the Evidence has not only not proved, but is very likely to have discharged from the memory of your lordships—I mean the Opening of my learned friend, the Attorney-General. Now, he shall himself describe, in his own words, the plan and the construction of that opening statement. It is most material for your lordships to direct your attention to this; because much of the argument rests on this comparative view. He did not then make a general speech, without book, without direction or instruction; but his speech was the spoken evidence; it was the transcript of that which he had before him; and the way in which that transcript was prepared, I leave your lordships, even uninformed to a certain degree as you now must needs be, to conjecture. "I will," said my learned friend—and every one who heard him make the promise, and who knows his strictly honourable nature, must have expected its accurate fulfilment—"I will most conscientiously state nothing which I do not, in my conscience, believe I shall be able to substantiate in proof; but I will withhold nothing, upon which I have the same conviction."* I believed the attorney-general when I heard him promise. I knew that he spoke from his conscience; and now that I see he has failed in the fulfilment, I equally well know that there is but one cause for the failure—that he told you what he had in his brief, which he had got into his brief from the mouths of the witnesses. He could get it in no other way but that. The witnesses who had told falsehoods before, were scared from repeating them here, before your lordships. Now, I will give your lordships one or two specimens of this; because I think these samples will enable you to form a pretty accurate estimate, not only of the value of that evidence, where it comes up to my learned friend's Opening, but also to form a pretty good guess of the manner in which that part of it which did succeed was prepared for that purpose. I will merely take one or two of the leading witnesses, and compare one or two of the matters which my learned friend opened, and will not tire you with the manner in which they told you the story.

First, my learned friend said, that the Evidence of the Queen's improper conduct would come down almost "until the time at which I have now the honour of addressing your lordships."* I am quoting the words of my learned friend, from the short-hand writer's notes. In fact, by the Evidence, that "*almost*" means up to the present time, all but three years; that is to say, all but a space of time, exactly equal to that space of time over which the other part of the Evidence extends.—At Naples, where the scene is laid which is first so sedulously brought before your lordships, as if the first connection between the two parties began upon that occasion—as if that were the night when the guilty intentions, which they long had been harbouring, but for want of opportunity had not been able to fulfil, were at length gratified—at Naples—I pray your lordships to attend to the manner in which he opened this first and most important branch of his whole case, and which if it fails, that failure must affect the statement of circumstances, not only in this part in the Evidence, but in all the subsequent stages of it—How does my learned friend open that part of his case? "I shall show you," says he, "that there are clear, decisive marks of two persons having slept in the bed—the night that the Queen came home, the second night she was at Naples, she returned early from the Opera; she went to her own room, from thence she repaired to Bergami's room, where Bergami himself was—the next day she was not visible till an unusually late hour, and was inaccessible to the nobility of Naples.† Every one of these assertions, rising one above another in succession and importance, but even the lowest of them of great moment to the case against her majesty—every one of them not only is false, but is negatived by the Witness produced to support them. Demont gives no "decisive marks;" she gives a doubtful and hesitating case. With one exception, there is nothing specific, even in

* See Vol. 2, p. 742.

* See Vol. 2, p. 743.

† See Vol. 2, p. 747.

what she swears; and with that I shall afterwards come to deal. But she denies that she knew where the Queen went when she first left her own bed-room. She denies that she knew where Bergami was at that time. She says affirmatively that the next morning the Queen was up and alert by the usual time. Not one tittle of evidence does she give, or any body else, of her having refused access to any one person who called; nor is any evidence given (to make it more complete) that any body called that morning.

Then come we to that which my learned friend opened with more than even his wonted precision. We know that all the rest was from his instructions. It could be from no other source. He had never been in Italy. Neither he nor my learned friend, the solicitor-general, have given us any idea of their knowing what sort of a country it is—that they know any thing of a masquerade—that they know any thing of a Cassino. My learned friend has represented as if the being black-balled at that Cassino is ruin to a person's character; forgetting who may be the members of the society at that Cassino—that there may be a colonel Browne—that it is held at the very place where the Milan Commission was held. "But," says my learned friend, the solicitor-general, "who ever heard of the wife of a royal prince of this country going disguised to a masquerade? Who would have thought that, being disguised, and being on her way to a masquerade, she did not go in her own state coach, with her livery servants, with a coachman bedizened with lacquays plaistered, with all the "pomp, pride, and circumstance" of a court or a birth-day, but that she went in a common hired carriage, without the royal arms, without splendor and garb, out at the back-door, instead of issuing out of the front door, with all the world spectators. Nay, I only wonder that my learned friend did not state, that she went to a masquerade in a domino, and a false face! My lords, it was not, therefore, from their own personal observation, certainly not from having been present at these royal recreations of Murat's court, that my learned friends obtained their knowledge of this cause; but they have it from Demont or Majoochi; the witnesses who have been examined again and again; and who have again and again told the same story; but which story being founded in fact, they now recollected only the part that was true, and forgot what was untrue.

"Then," says my learned friend, in this instance which I am now going to state, leaving us to our general suspicions as to where he got his knowledge upon the other circumstances, and coming to something more specific, "I am instructed to state," and in another instance, "the witness says," so and so, showing he was reading the witness's deposition. "I am instructed to state, that the dress which the princess had assumed, or rather the want of it in part, was extremely indecent and disgusting;"* and he adds afterwards, in commenting upon it, that it was of the "most indecent description;" so that she was, on account of that indecency, on account of the disgusting nature of it, by those who actually saw it, hooted from the public theatre. Your lordships will recollect what it came to—that the princess was there in a dress that was exceedingly ugly—the maid Demont said, in a "very ugly" dress; and that was all my learned friend could get her now to assert—that it was without form, and ugly—masques came about her, and she, unknown in her own masque—for, strange as it may appear to my learned friend, a person at a masquerade endeavours to be disguised—was attacked from joke or from spite—oftener from joke than from spite; her own dress being of that ugly description—from what reason is left to this moment unexplained.

My lords; I should fatigue your lordships if I were to go over other instances, I shall only mention that at Messina. Voices are said to have been heard. The attorney-general opened, that at Messina he should prove, that the princess and Bergami were locked up in the same room and were heard speaking together. That is now reduced, by the evidence, to certain voices being heard, she cannot say whose. At Savona, where my learned friend gives you, as he generally does in his speech, the very day of the month, the 12th of April, he stated, that the only access to the princess's room was through Bergami's, where there was no bed, but that in the princess's room there was a large bed. The witness proved only one of those particulars out of three.

Passing over a variety of particulars, I shall give only one or two instances from Majoochi's and Sacchi's evidence. "The princess remained in Bergami's

* See Vol. 2, p. 749.

room a very considerable time," the night that Majoochi swore she went into his room, "and there the Witness heard them kissing each other," says the attorney-general. Majoochi says, she remained there one of the times ten minutes, the other fifteen; and that he only heard a whispering. Now, as to Sacchi. The story as told by my learned friend, from the brief in his hand, and which I have no doubt my learned friend has in his papers, and that Sacchi had told before at Milan, is, that a courier one night returned from Milan, that is, that he, Sacchi, returned as a courier from Milan, for it was he whom he meant—that finding Bergami out of his own room, he looked about and saw him come out of the Queen's room undressed—that all the family were in bed—that he observed him—that he spoke to him—and that Bergami explained it by saying, he had gone, hearing his child cry, to see what was the matter; and desired him not to mention any thing about it.*—Sacchi negatives this, as far as a man speaking to so unusual a circumstance, which if it had happened, must have forcibly impressed his recollection, can do so. He denies it as strongly as a man can, by denying all recollection of any such particulars, although not for want of examination; for my learned friend, the solicitor-general, questions him over and over again, and he cannot get him to come within a mile of such a fact.

Then come we to the disgraceful scenes, as the attorney-general described them, at the Barona; which he said—and if they had been as they were represented to him, I doubt not he used a very fair expression—he did not tell us what they were, but "they were so disgraceful, that it rather made that house deserve the name of a brothel, more than that of a palace, or a place fit for the reception of her majesty, or a person of the least virtue or delicacy."† Here, there is a most entire failure of proof from all the witnesses.

Then we are told, that at Naples the attendants were shocked and surprised by the conduct of the Queen—that in Sicily no doubt was entertained by them, from what they saw of the familiarities between the parties, that a criminal intercourse was going on there. Not one of those attendants describes that effect to have been produced upon their minds by what they saw. I shall afterwards come to what they did see; but they do not tell you this, though frequently prompted to do it. Then, as to the visiting of the nobility—that the Queen's society was given up by the ladies of rank of her own country, from the moment she left this country—that they all fell away—in short, that she was treated abroad, I know not from what motive, with something of the same abandonment with which she was treated in this country; I well know from what motive. All this is disproved by the evidence. How came my learned friend to forget the fact of that most respectable woman, lady Charlotte Lindsay, joining her at Naples, after her conduct had been observed by all the servants; with which servants lady Charlotte Lindsay naturally lived on terms of intimacy, and between which servants, I have no idea that any thing of that grave-like secrecy existed, which each of them has represented to have existed between themselves up to the time they came to the Cotton Garden dépôt, and up to the moment that they brought from that dépôt to your lordships' bar, the resources of their perjury. Lady Charlotte Lindsay, lord and lady Glenbervie, Mrs. Falconet and others had no doubt some intercourse with those Neapolitan servants, all of whom are represented as having been perfectly astounded with the impropriety, nay the indecency of the conduct of their royal mistress; and yet those persons are proved to have joined her, some at Naples, some at Rome, others at Leghorn, and to have associated with her, in spite of all this open and avowed indecorum.

But, even to a much later period, and in higher quarters, the Queen's company has been proved, by my learned friend's case, not to have been treated abroad with the neglect which it experienced here. She has been, in the first place; courteously received, even after her return from the long voyage, by the legitimate sovereign prince of Baden, a prince with a legitimate origin, though with a revolutionary accession to his territory. Equally well received was she by the still more legitimate Bourbons at Palermo; but courted was her society by the legitimate Stuarts of Sardinia, the heirs legitimate as contra-distinguished from the heirs of liberty and of right, to the throne of this realm—the illegitimate heirs I call them;

* See Vol. 2, p. 787.
† See Vol. 2. p. 788.

but the true legitimates of the world, as some are disposed to call them who do not hold that allegiance, at least who disguise that allegiance, to the house of Brunswick, which, as good subjects, we all cherish. Nay, even a prince who, I doubt not, will rank, in point of antiquity and family, even higher than the legitimate Bourbons and Stuarts—I mean his highness the dey of Tunis, received her majesty as if she was respected by all his lighter-coloured brethren in the other parts of the globe. And she was also received, in the same respectful manner, by the representative of the king at Constantinople. So that wherever she has gone, she has met from all ranks, the only persons of authority and note whom she could have had as her vindicators. She was received by all those persons of authority and note, not only not as my learned friend expected to prove, but in the very reverse manner, and as from the evidence I have now described her.

Suffer me now, my lords, to solicit your lordships indulgence, while I look a little more narrowly into the case which was thus opened, and not proved by the attorney-general. The first remark which must strike any one who attends to this discussion, is one which pervades the whole case, and is of no small importance. Is it not remarkable, that such a case, possessed as they are of such witnesses, should have been left so lame and short as they must admit it to be left, when contrasted with their Opening? Was ever a case of criminal conversation brought into court under such favourable auspices? Who are your witnesses? The very two who, of all man and woman kind, must know most of this offence, not only if it were in the daily course of being committed, but if committed at all—I mean, the body servants of the two parties, the valet of the man, and the lady's own waiting maid. Why, in common cases, these are the very witnesses the counsel are panting to have and bring into court. From the form of the action, they can hardly ever venture to bring the man's servant; but if they can get hold of one by good fortune, they consider their case must be proved; and then the only question comes to be as to mitigation of damages—for as to proving the fact, no defendant would hold out. And if you believe any part of their case, it was not from any over caution of the parties—it was not from any great restraint they imposed on themselves, and, knowing that they were watched, that they took care to give the world nothing to see; because, if you believe the evidence, they had flung off all regard to decorum, all trammels of restraint, all ordinary prudence; and had given way to this guilty passion, as if they were still in the hey-day of youthful blood, and as if they were justified by those ties which render its indulgence a virtue rather than a crime. Yet, with all this want of caution—all these exhibitions of want of circumspection—the man's serving man, and the ladies waiting woman have not been able to prove more than these facts which, it is pretended, make out the charge. When I said, however, there was no caution or circumspection, I mis-stated the case. If you believe the evidence—and it is the great circumstance of improbability to which I solicit your attention—if you believe the evidence, there was every caution used by the parties themselves, to insure discovery, which the wishes and ingenuity of their most malignant adversary could have devised to promote his own designs. Observe how every part of the case is subject to this remark; and then I leave to your lordships confidently the inference that must arise from it. You will even find, that just in proportion as the different acts alleged are of a suspicious or of an atrocious nature, in exactly the same proportion do the parties take especial care that there shall be good witnesses, and many of them, in order to prove it. It would be a horrible case, if such features did not belong to it; but such features we have here abundantly; and if the witnesses are to be believed, no mortal ever acted as the Queen is represented to have done. Walking arm and arm is a most light thing; it seldom takes place except in the presence of witnesses, and many of those speaking most accurately respecting it; but sitting together in an attitude of familiar proximity which is somewhat less equivocal, is proved by several witnesses; and those who state it to have been done by the aid of placing the arms round the neck, or behind the back, and which accordingly raises it a step higher —these witnesses show you this happened when the doors were open, in the height of the sun, in a villa where hundreds of persons were walking, and when the house and villa were filled with common workmen. Several salutes were given;

and, as this is still higher in the scale, it appears that never was a kiss to pass between these lovers without especial pains being taken, that a third person should be by to tell the story to those who did not see it. One witness is out of the room, while Bergami is about to take his departure on a journey from the Queen, while in Sicily. They wait until he comes in, and then they kiss. When at Terracina Bergami is going to land, the whole party are on deck. The princess and Bergami retire to a cabin, and wait till Majoochi enters, and then the act is perpetrated. Sitting on a gun, or near the mast of the ship, on the knees of the paramour, is an act still higher in the scale of licentiousness—It is only proved scantily by one witness, but of that hereafter—care is taken that it should be perpetrated before eleven persons. But sitting upon a gun with the arms entwined, is such an act as leaves nothing to the imagination, except the granting of the last purposes of desire—This must be done in the presence of all the crew, of all the servants, and all the companions, by day and in the evening. The parties might be alone at night: then it was not done; but, at all other times, it is done before all the passengers and all the crew.

But the case is not left here. As your lordships might easily suppose, with persons so wary against themselves, such firm and useful allies of their accusers, such indispensable proofs of the case against them are not wanting to prove the last favour in the presence of good witnesses; and accordingly, sleeping together is not only said to have taken place habitually and nightly in the presence of all the company and all the passengers on board, but always, by land as well as by sea, did every body see it, that belonged to the party of pilgrims to Jerusalem. Nay, so far is this carried, that Bergami cannot retire into the anti-chamber where the princess is to change her clothes, or for any other purpose, without special care being taken, that the trusty, silent, honest, unintriguing Swiss waiting-maid shall be placed at the door of that anti-room, and told, "You wait here: we have occasion to retire for an hour or two and be naked together;" or at least, she is at liberty to draw what inferences she pleases from the fact.

But, my lords, I wish I could stop here. There are features of peculiar enormity in the other parts of this case; and in proportion as these disgusting scenes are of a nature to annoy every one, however unconcerned in the case, who hears them; to disgust and almost contaminate the mind of every one who is condemned to listen to them—in that proportion is especial care taken that they shall not be done in a corner. The place for them is not chosen in the hidden recesses of those receptacles of abomination which the continent have too many of, under the degraded and vilified name of palaces—the place is not taken in the hidden haunts which lust has degraded to its own purposes—some island where vice concealed itself from the public eye of ancient times—it is not in those palaces, in those Capreæ of old, that the parties chose to commit such abominations; but they do it before witnesses in open day-light, when the sun is at the meridian. And that is not enough: the having them in the public high-ways is not enough: but they must have a courier of their own to witness them, without the veil of any one part of the furniture of a carriage, or of their own dress, to conceal from his eye their disgraceful situation! My lords, I ask your lordships whether vice was ever known before so unwary; whether folly was ever known so extravagant; whether unthinking passion, even in the most youthful period, when the passions swell high, and the blood boils in the veins, was ever known to act so thoughtlessly, so recklessly, so foolishly, as this case compels me to fancy? And when your lordships have put the facts to your minds, let this consideration dwell there, and let it operate as a check, when you come to examine the evidence by which the case is supported.

But all this is nothing. Their kindness to the enemy—their faithfulness to the plot against themselves, would be left short indeed, if it had gone no further than this; for it would then depend upon the good fortune of that adversary in getting hold of that witness; at least it might be questionable, whether the greater part of their precautions for their own ruin might not have been thrown away. Therefore, every one of these witnesses, without any exception, is either dismissed without a cause—for I say the causes are mere flimsinesses personified—or is refused to be taken back, upon his earnest and humble solicitations, when there was every human inducement to restore them to favour.—My lords, this is not all.

Knowing what she had done; recollecting her own contrivances; aware of all these cunning and elaborate devices towards her own undoing; having before her eyes the pictures of all those schemes to render detection inevitable and concealment impossible; reflecting that she had given the last finishing stroke to this conspiracy of her own, by turning off these witnesses causelessly, and putting them into the power of her enemy; knowing that that enemy had taken advantage of her; knowing the witnesses were here to destroy her, and told that if she faced them she was undone; and desired and counselled and implored, again and again, to bethink her well before she ran so enormous a risk—the Queen comes to England, and is here, on this spot, and confronts these witnesses whom she had herself enabled to undo her. Menaced with degradation and divorce, knowing that was not an empty threat that was held out, and seeing it was about to be accomplished, up to this hour she refuses all endeavours towards a compromise of her honour and her rights; she refuses a magnificent retreat and the opportunity of an unrestrained indulgence in all her criminal propensities, and even a safeguard and protection from the court of England, and a vindication of her honour by the two Houses of parliament. If, my lords, this is the conduct of guilt—if these are the lineaments by which vice is to be traced in the human frame—if these are the symptoms of that worst of all states, dereliction of principle carried to excess, when it almost becomes a mental disease—then I have misread human nature; then I have weakly and groundlessly come to a conclusion—for I have always understood, that guilt was wary, and innocence alone unwary.

Attend now, my lords, I beseech you, with these comments upon the general features of the case, to the sort of evidence by which such a case is attempted to be established. I should exhaust myself, besides fatiguing your lordships, if I were to pause here and make a few of the cogent remarks which offer themselves, upon the connection of that part of the case which I have now gone through, with the part I am coming to. But there are one or two points so material, that I cannot omit all mention of them before I proceed further. I will make one observation, that, if an ordinary case could not be proved by such evidence as I am now to comment upon—if it would require very different proofs in the most common story, if there were no improbabilities such as I have shown—a case such as that I have now described, ought to be proved by the most convincing the most pure and immaculate testimony.

My lords; I do not intend to assert—I have no interest in stating it—that a conspiracy has been formed against the Queen, by those who are the managers of the present proceeding. I say not such a thing. I only will show your lordships, that if there had been such a measure resorted to; that if any persons had been minded to ruin her majesty by such a device, they could not have taken a better course, and probably they would not have taken a different course, from that which I think the case of the prosecution proves them already to have pursued. In any such design, the first thing to be looked to is the agents, who are to make attacks against the domestic peace of an individual, and to produce evidence of misconduct, which never took place. Who are those persons I am fancying to exist—if their existence be conceivable—who are those that they would have recourse to, to make up a story against the victim of their spiteful vengeance? First of all, they would get the servants who have lived in the house. Without them, it is almost impossible to succeed: with them, there is a most brilliant prospect of a triumphant result. Servants who have lived in the family were, in fact, all that could be desired—But, if those servants were foreigners, who were to be well tutored in their part abroad, and had to deliver their story where they were unknown, to be brought to a place to which they might never return all their days, and to speak before a tribunal which knew no more of them than they cared for it—whose threat they had no reason to dread, whose good opinion they were utterly careless of; living in a country to which they did not care two rushes whether they returned or not, and knew they never could return—those were the very identical persons such conspirators would have recourse to. But, there is a choice among foreigners. All foreigners are not made of the same materials; but, if any one country under heaven is marked out more than all the rest as the *Officina* for such a race, I say that country is the country of Augustus and Borgia. I speak of its perfidies, without imputing them to the country at large; but

there in all ages perfidy could be had for money, while there was interest to be satisfied, or spite to be indulged.

I say, my lords, that there are in Italy, as in every where else, most respectable individuals. I have myself the happiness of knowing many Italian gentlemen in whose hands I should think my life or honour as safe as in the hands of any of your lordships. But I speak of those who *have not* been brought here, when I so pass my opinion of them. Those who have been brought over and produced at your lordships bar, are of a far other description:—"*Sunt in illo numero multi boni, docti, pudentes, qui ad hoc judicium deducti non sunt: multi impudentes, illiterati, leves; quos, variis de causis, video concitatos. Verum tamen hoc dico de toto genere Græcorum; quibus jusjurandum jocus est; testimonium ludus; existimatio vestra tenebræ; laus, merces, gratia, gratulatio proposita est omnis in impudenti mendacio.*" My lords, persons of this latter description were to be gotten by various means, which the carelessness of the one party, which the wealth and power of the supposed conspirators, placed within their reach. Money, accordingly, has been given, with a liberality unheard of in any other case, even of conspiracy; and where money would not operate, power has been called in to its aid.

Having thus procured their agents—having thus intrusted them—how were they to be marshalled to compass the common design? Uniformity of agreement is above all things necessary in conspiracy. Accordingly, they are taken, one by one, and carefully examined before one and the same person, assisted by the same coadjutors and even by the same clerks—they are moved in bodies along the country, by even the same couriers; and these couriers are not the ordinary runners of the foreign office of the country which shall be nameless, who had some connexion with the spot, but special messengers, whose attention is devoted peculiarly to this department. Many of the persons intended to be used themselves as witnesses, are employed as messengers; which kept the different witnesses in the due recollection of their lesson, and had the effect of encouraging the zeal of these witnesses, by giving them an office, an interest, a concern in the plot that is going on.

Observe, then, my lords, how the drilling goes on. It is not done in a day—nor a week—hardly in a year: but it extends over a long space of time; it is going on for months and years. The Board is sitting at Milan. There they sit at the receipt of perjury; there they carry on their operations—themselves ignorant, no doubt, of its being perjury; but then, so long as it continues, so much the more likely is the gross perjury to take place. The witnesses are paid for their evidence: the tale is propagated by the person receiving the money carrying it to his own neighbourhood; and he becomes the parent of a thousand tales, to be equally paid as they deserve; for one is as false as the other. You mark the care with which it is treated—there is not a witness (I mean an Italian witness) brought to this country, without previously passing through the Milan drill; because, if they had not passed through that drill, there would be a want of union and agreement. So that even the mate of the polacre, Paturzo, who was brought here to be examined on the morning after his arrival, was brought through Milan, and passed his examination before the same persons who had taken the former examinations. Aye, and the captain too, who was examined by the Board, more than a year ago, is carried by the way of Milan, to have a conversation with his old friend there, who, the year before, had examined him to the same story. Here, then, by these means recruited—with this skill marshalled—with all this apparatus and preparation made ready to come to the field where they are to operate, you have the witnesses safely landed in England; and in order that they may be removed from thence suddenly, all in a mass, they are living together while here; then they are carried over to Holland, and afterwards returned here; and finally deposited, a day or two before their well-earned services, and well-earned money, I think, require them to appear before your lordships. They are kept together in masses—formerly they lived in separate rooms; it was necessary not to bring them together before; but those of feeble recollection it was necessary afterwards to keep together, for the convenience of mutual communication. There they were, communicating to each other their experiences, animated by the same feelings and hopes, founded on the same motives to the same common cause. But not only this;—according to the parts of the story which they were to make out before your lordships, they were put to-

gether. There are two Piedmontese: they did not associate together in this *contubernium*—for I know of no other name by which to denote the place they occupied—but one of them kept company with the mate and captain of the polacre, because he tells the same story with themselves. It is needless to add, that they are here cooped up, in a state of confinement—here they are, without communicating with any body but themselves, ignorant of every thing that is going on around them, and brought from that prison by these means, in order to tell to your lordships the story which, by such means, has been got up among them.

My lords; I fear I may appear to have undervalued the character of these Italians. Suffer me, then, to fortify myself upon the subject, by saying, that I am not the person who has formed such an estimate of the lowest orders of that country. And perhaps it may be some assistance to your lordships—possibly some relief from the tedium of these comments on the statements of the evidence in support of the bill, if I carry your lordships back to a period of the history of this country, and I shall take care not to do it to any remote period, or to circumstances very dissimilar from those which mark the present day. Your lordships, I perceive, anticipate me. I naturally go back to the reign of Henry the 8th, and the proceedings against Catharine of Arragon. And I shall show your lordships in what way we have a right to view Italian testimony, though proceeding from sources calculated to establish impressions very different from the statements of discarded servants. Your lordships will find in the records of that age, in Rymer's Collection, some curious documents with respect to the proceedings of Harry the 8th. The great object, as your lordships know, was, to procure and consult the opinions—the free, unbiassed opinions—of the Italian jurists, in favour of his divorce. Rymer gives us the opinions of the professors and doctors of several of the Italian universities; and from them your lordships will see that, by a strange coincidence, these *Docti* gave their "free, unbiassed opinions," in nearly the same words. I shall select that of the most celebrated of the whole, which is known by the appellation of Bologna the Learned. The doctors there say, one and all, that in compliance with the request of the King, they each separately, and unconnected with his fellows, had examined the case;—they had taken the care which your lordships have taken on the present occasion—and then, having well weighed the matter—"*Censemus, judicamus*, dicimus constantissime testamur, et indubie affirmamur"—they say, that having sifted the question, they are one and all of opinion, that Harry the 8th has a right to divorce his queen. But it seems that, from the great similarity of the opinions of the doctors, and of the language in which they were expressed, there existed at that time much the same suspicion of a previous drilling, that there does appear to have been in a certain other case which I shall not now mention; and that to repel that suspicion, pretty nearly the same precautions were used as in this other case. Indeed, by a singular coincidence, these *Doctissimi Doctores* of the sixteenth century, were directed to swear—which they might do with a safe conscience—that they had never opened their mouths to one another on the subject—in the same manner that the *illiterati et impudentes* of the present proceeding swore, that they had never talked to one another on the subject of what each had to swear. The doctors and divines of Italy swore, on the Holy Gospel, "that they never had, directly or indirectly, communicated their sentence, or any word or thing concerning the same, by sign, word, deed, or hint, until a certain day;"—which was the day they all came to understand the matter.

Now, my lords, all this appeared, *prima facie*, a very sound and specious case; as every security had been taken to guard against any captious objection; and, with that character it would, probably, have passed down to posterity, if there had been no such thing as a good historian and honest man, in the person of bishop Burnet; and he, with his usual innocence, being a great advocate of Harry the 8th, in consequence of his exertions in support of the Reformation, tells the tale in the way which I am now going to state; still leaning towards that king, but undoubtedly letting out a little that is rather against himself. Harry first provided himself with an able agent; and it was necessary that he should also be a learned one. He took one, then, to whom my learned friend, the solicitor-general's eulogium on the head of the Milan commission, would apply in some of the words;—a man of great probity, and singularly skilled in the laws of his country. And, by a still more

curious coincidence, the name of Harry's agent happened to be Cooke. "He went up and down," says Burnet, "procuring hands; and he told them he came to, that he desired they would write their conclusions, according to learning and conscience,"—[as I hope has been done at Milan]—"without any respect or favour, as they would answer it at the Last Day; and he protested,"—[just as I have heard some other persons do]—"that he never gave nor promised any divine any thing, till he had first freely written his mind;" and he says, that "what he then gave, was rather an honourable present than a reward;"—as a compensation, not a recompence. These were the very words used in that country, at that time—as they have been, recently, in this.

Now, we have a letter from this agent—as who knows two hundred years hence there may not be letters from Milan?—There is a letter of Cooke's to Henry the eighth, dated the 1st of July, 1530, in which he says, "My fidelity bindeth me to advantage your highness, that all Lutherans be utterly against your highness in this cause, and have told as much, with their wretched power, malice without reason or authority, as they could and might; but I doubt not," says he, "that all Christian Universities"—Christian contradistinguished from Lutheran!—"that all Christian ministers, if they be well handled, will earnestly conclude with your highness. Albeit, gracious lord"—now comes he to expound what he means by the well-handling of the Christian Universities—"albeit, gracious lord, if that I had in time been sufficiently furnished with money; albeit, I have, beside this seal, procured unto your highness 110 subscriptions; yet, it had been nothing, in comparison of that that I might easily and would have done. And herein I inclose a bill specifying by whom and to whom I directed my said letters, in most humble wise beseeching your most royal clemency to ponder my true love and good endeavouring, and not suffer me to be destitute of money, to my undoing, and the utter loss of your most high causes here." Now this, my lords, undoubtedly is the outward history of this transaction; but we have only seen the accounts of Bishop Burnet and of the agent Cooke. But, happily, the Italian agent employed by Henry the 8th, one Peter à Ghinnuciis, the Vimercati of that day, left his papers behind him, and we are furnished with the original tariff, by which the value of the opinions of these Italian doctors and divines were estimated. "Item, to a Servite friar, when he subscribed, one crown; to a Jew, one crown; to the doctor of the Servites, two crowns; to the observant friars two crowns; Item, to the prior of St. John's and St. Paul's, who wrote for the king's cause, fifteen crowns"—the author was better paid then than the advocate; as often happens in better times—"Item, given to John Maira, for his expense of going to Milan, and for rewarding the doctors there, thirty crowns." There is a letter also from the bishop of Worcester to Cooke, directing, that he should not promise rewards, except to them that lived by them, to the Canonists who did not use to give their opinions without a fee." The others he might get cheaper—those he must open his hand to; because, he says, the Canonists, the Civilians, did not use to give an opinion without a fee. Bishop Burnet, with the native simplicity and honesty of his character, sums up all this with remarking, that these Italian doctors "must have had very prostituted consciences, when they could be hired so cheap. It is true, that Cooke, in many of his letters, says, that if he had had money enough, he could get the hands of all the Divines in Italy; for he found the greatest part of them were mercenary."

My lords; the descendants of those Divines and Doctors, I am sorry to say, have rather improved than backslidden from the virtues of their ancestors; and, accordingly, I trust your lordships will permit me to bring the tale down to the present day, to connect the present proceeding with the Divorce of Harry the 8th's time. I trust your lordships will allow me to read to you the testimony, given in the year 1792, of a native of Italy, of distinguished family, who was employed in a diplomatic character, by an august individual, who was near being the victim of an Italian conspiracy—he published a letter, and it is evidence, I say, because it was published before the whole Italian nation in their own tongue, and it states what Italian evidence is made of; and he addressed it, with his name, to the prime minister of the country, that minister enjoying the highest civil and military authority there, and being by descent a subject of the British crown—I mean general Acton. "To the dishonour of

human nature," says the writer, "there is nothing at Naples so notorious as the free and public sale of false evidence. Their ordinary tariff is three or four ducats, according to the necessities of those who sell, and the occasions of those who buy it. If, then, you would support a suit, alter a will, or forge a hand-writing, you have only to cast away remorse and open your purse—the shop of perjury is ever open." It poured in upon him in a full tide: he made his appeal in such words as I have now read: he and his royal master, who was implicated in the charge, were acquitted by such an appeal; and I now repeat it, when such evidence is brought to support charges as atrocities, as ruinous, and far more incredible in themselves, than that an Italian should have suborned an agent to injure a fellow creature.

My lords; I have been drawn aside from the observations I was making, generally, of the manner in which this Case has been prepared. I pray your lordships to observe how these witnesses all act after they come into court: and the first thing that must strike an observer here, is the way in which they mend their evidence—how one improves upon the other after an interval of time—and how each improves, when required, upon himself. I can only proceed, my lords, in dealing with this subject of conspiracy and false swearing, by sample: but I will take the one that first strikes me; and I think it will effectually illustrate my proposition. Your lordships must remember the manner in which my learned friend, the attorney-general, opened the case of Mahomet, the dancer. Again, I take his own words: "A "man of the most brutal and depraved "habits, who at the Villa d'Este exhibited "the greatest indecencies at various times, "in the presence of her majesty and Ber-"gami—exhibitions which are too dis-"gusting to be more than alluded to—"the most indecent attempts to imitate "the sexual intercourse.—This person "deserves not the name of a man"*—said the attorney-general. Now, my lords, I take this instance, because it shows the proposition that I was stating to your lordships, better than any other, perhaps. All show it, to a degree; but this, best of all; because I have shown your lordships how careful the attorney-general is in opening the Case, and how strong his expressions are; consequently, he felt the importance of this fact; he knew how damaging it would be to the Queen; he knew it was important to state this, and he felt determined not to be disappointed when he had once and again failed—he brought three witnesses; and if one would not swear the first time, he brought him again. Now, my lords, if I show the symptoms of mending and patching in such a case, it operates as volumes against that case; and if your lordships find it here, you may guess it is not wanting elsewhere. But here it is most manifestly to be seen. Your lordships plainly perceived what it was that these witnesses were intended to say. You no sooner heard the first question put—you no sooner heard the leading questions with which the solicitor-general followed it, than you must have known it was expected, that an indecent act would be sworn to—that it would be sworn it was an exhibition of the most gross and indecent description; and one part of the evidence I can hardly recount to your lordships. Now see, my lords, how the first witness swore—this is their first and main witness, who is brought to prove their whole case—Majoochi. He will only allow—and this is the first stage in which this deity of theirs is brought before your lordships—he will only allow it is a dance. "Did you observe any thing else?"—the usual answer, "*Non mi ricordo;*" but if there was, "I have not seen it," and "I do not know." "Was any thing done by Mahomet, upon that occasion, with any part of his dress?" says the solicitor-general, evidently talking from what he had seen written down:—"He made use of the linen of his large pantaloons."—"How did he use his trowsers? Did he do any thing with the linen of his pantaloons or trowsers?" "His trowsers were always in the same state as usual."* Here, then, was a complete failure—no shadow of proof of those mysteries which this witness was expected to divulge. This was when he was examined on the Tuesday. On the Friday, with the interval of two days—and your lordships, for reasons best known to yourselves, but which must have proceeded from justice guided by wisdom, which is never more seen or evidenced than in varying the course of conduct, and adapting to new circumstances the actions we

* See Vol. 2, p. 797.

* See Vol. 2, p. 841.

wish to do—which will not, if it be perfect in its kind, and absolute in its degree, suffer by the deviation; for that reason alone, in order that injustice might not be done (for what, in one case, may be injurious to a defendant, may be expected mainly to assist a defendant in another)—Your lordships, not with a view to injure the Queen—your lordships, with a view to further the ends of justice, allowed the Evidence to be printed, which afforded to the witnesses if they wished it, means to mend and improve upon their evidence—Your lordships allowed this, solely with the intention of gaining for the Queen that unanimous verdict, which the country has pronounced in her favour, by looking at the Case against her—your lordships, however, allowed all the evidence against her to be published, from day to day. Accordingly, about two days intervened between Majoochi's evidence, and the evidence of Birollo; during which time, Birollo had access to Majoochi's deposition, as well as to his person; and it is no little assistance, if we have not only access to the witness, but to his testimony; because he may forget what he has sworn, and it is something that he should see, as well as the second and the mending witness, the story he has told. Accordingly, with the facility which this gave him, came forward Birollo, after two days interval, he improves upon the story; from a dance, and from the usual handling, or ordinary use of the trowsers, he made a rotula or roll. The witness then begins to hint at some indecency; but he does not mention it. He starts and draws back. For my part, I cannot tell what he meant; and he really adds something which he, in his own wicked imagination, might think indecent, but he was forced to admit he did not know what it meant.* But, on the Wednesday following, a witness comes, and he finishes it altogether. He improves even upon Birollo; and he tells you, in plain downright terms, that which I have a right to say is, because I know I can prove it to be, false—which I have a right to say, before proving it, was false; because I know the same dance was witnessed by wives and daughters, as modest and pure as any of your lordships have the happiness of possessing—by wives and daughters of your lordships in those countries.

* See Vol. 2, p. 944.

Now, another improvement and mending, suffer me, my lords, to advert to; for it runs through the whole case. I do not even stop to offer any comment upon the *non mi ricordo* of Majoochi; nor on the extraordinary fact of that answer being regularly dropped by the other witnesses, as soon as the impression which the repetition had made on the public mind was fully understood; but I wish to call your lordships attention to the more important point of money. No sooner had Gargiulo the captain, and Paturzo the mate of the polacre, proved that they were brought here by sums so inadequate to the service, by sums so infinitely beyond even the most ample remuneration for their work; that they were bribed by sums such as Italians in their situation never dreamed of—no sooner had this fact dropped out, than one and all of them are turned into disinterested witnesses, not one of whom ever received a shilling by way of compensation for what they did. "Half-a-crown a day for the loss of my time, my travelling expenses, and a few stivers to feed my family!" The expectation of his expenses being paid, began in the instance of the cook, Birollo. He told you, he had nothing at all but his trouble for coming here. "Do you expect nothing?" "I hope to go soon home to find my master." The cook at first was offered and refused money. The others had nothing offered—Demont nothing!—Sacchi nothing!—though true, he, a courier, turns out to be a man of large property, and says, "Thank God! I have always been in easy circumstances"*—thank God! with a gratitude truly edifying. A man who must have a servant of his own—who had one in England—who must live here at the expense of four or five hundred pounds a year, which is equal to fourteen or fifteen hundred in Italy, goes to be a courier, is angry at being turned off, and is anxious to return to that situation! I believe the captain and the mate. They avowed that what they had was enormous payment; and the other witnesses, hearing of the effect of that confession, have, one and all, denied having received any thing, and would not confess that they had any future expectations.

The last of these general observations with which I shall trouble your lordships, and which I own I think your lordships

* See Vol. 2, p. 1276.

must have been impatient I should come to, is with regard to the great blanks among the witnesses for the prosecution—I mean, the fewness of those witnesses, compared with what their own testimony, and their own statement that introduced it, show your lordships they ought to have called. My lords, I conjure you to attend to this circumstance, for it is a most important point in the whole of this case. I say, that if I had not another argument to urge, I should stand confidently upon this ground. If the case were as ordinary as it is extravagant—if it were as probable as it is loaded in every feature with the grossest improbabilities—if it were in the common course of human events, that such occurrences as those which have been alleged should have happened, as it is the very reverse—I should still stand confidently and steadily upon that part of the case to which I have now happily arrived. I know, my lords, that it is bold—I know that it is bold even to rashness—to say so much of any point before I have begun to hint at it; but I feel so perfectly, so intimately convinced, that in such a case as the present, the circumstance to which I refer ought to be fatal to the bill before your lordships, that I consider myself as even acting prudently, in declaring, by anticipation, what I hold to be its character.

My lords; the attorney-general told us, that there were rumours at Naples, why the Queen's ladies left her—it turned out, that instead of leaving her, one had joined her at Naples, one had joined her at Leghorn, and another at Genoa afterwards—but my learned friend said, that one left her, and one or two others staid behind, and rumours were not wanting, that their doing so was owing to the impropriety of her majesty's conduct. Rumours! My learned friend may say, that these were rumours which he was unable to prove. But if they were rumours which had any foundation whatever—if they were such rumours as my learned friend had a right to allude to (even if he had a right to refer to rumour at all, which I deny)—if there was a shadow of foundation for those rumours, why did he not call the obvious witnesses to prove it? Where were those ladies, women of high rank and elevated station in society, well-known in their own country, loved, esteemed, and respected, as women upon whose character not a vestige of imputation has ever rested—women of talents as well as character—the very persons to have brought forward, if he had dared bring them forward; and the very signal, and I had almost said extravagant contrast to all the witnesses, but two, whom my learned friend did venture to call to your lordships' bar? why were they not produced to your lordships? why had not your lordships—why had not we the benefit of having the Case proved against us, in the manner in which any judge sitting at the Old Bailey, would command, upon pain of an acquittal, any prosecutor to prove against any ordinary felon? Certainly, they were in our employment; they were in some way connected with our interest; they received salaries from the Queen, and might be supposed to be amicably disposed towards us. My lords, is there in all that, the shadow of a shade of a reason why they should not have been adduced? I am not speaking, my lords, in a civil action. I am not dealing with a plaintiff's case, in a suit upon a bill of exchange for twenty pounds. I am not even speaking in a case of misdemeanor, or a case of felony, or the highest crime known in the law, between which and the act alleged against my illustrious client it is difficult to draw simply a technical distinction. But I stand here on a bill of Pains and Penalties, which your lordships are not bound to pass; which you may give the go-by to; which you are not bound to say aye, or no, to. Your lordships are not sitting as commissioners to try a case of high treason. Gracious God! is this a case in which the prosecutor is to be allowed to bring forward half a case? Is this an occasion on which the prosecutor is to be allowed to say, "These witnesses I will not call. True it is, they are the best. True it is, that they are respectable; and that they are unimpeachable, no man can deny. If they swear against the Queen, she is utterly undone. But I will not call them. I will leave them for you to call. They are not my witnesses, but yours. You call them. They came from your vicinity. They are not tenants of Cotton-garden, and therefore I dare not, I will not, produce them; but when you call them, we shall see what they state, and if you do not call them"—in the name of justice, what? Say. For shame, in this temple, this highest temple of justice, to have her most sacred rule so profaned, that I am to be condemned in the plenitude of proof, if guilt is—that I

am to be condemned unless I run counter to the presumption which rules in all courts of justice, that I am innocent until I am proved guilty; and that my case is to be considered as utterly ruined, unless I call my adversaries witnesses! My lords, my lords, if you mean ever to show the face of those symbols by which Justice is known to your country, without making it stand an eternal condemnation of yourselves, I call upon you instantly to dismiss this case and for this reason; and I will say not another word upon the subject. My lords, perhaps your lordships will allow me a short interval, as I am now coming upon another part of the Case.

[Having retired for three quarters of an hour, Mr. Brougham proceeded as follows:]

My lords; I have humbly to return my thanks to your lordships, for the indulgence with which you have kindly favoured me. I have now to solicit the attention of your lordships, and I am afraid at greater length than any thing could justisfy but the unparalleled importance of the occasion, to a consideration more in detail of the Evidence by which this Case has been attempted to be supported. And, in point of time, as indeed of importance, the first figure that was presented to your lordships in the group, must naturally have arisen to your recollection the moment I announced my intention of going into any particular detail of the merit of the different witnesses—I mean Theodore Majoochi of happy memory, who will be long known in this country, and every where else, much after the manner in which ancient sages have reached our day, whose names are lost in the celebrity of the little saying by which each is now distinguished by mankind, and in which they were known to have embodied the practical result of their own experience and wisdom; and, as long as those words which he so often used in the practice of that art and skill which he had acquired by long experience and much care—as long as those words shall be known among men, the image of Majoochi, without naming him, will arise to their remembrance. My lords, this person is a witness of great importance; he was the first called, and the latest examined; continuing by the case and accompanying it throughout. His evidence almost extended over the whole of the period through which the Case and the charge itself extends; in fact, only dismissed, or rather retiring from the Queen's service, and refused to be taken back, about the time when the charge closed. He and Demont stand aloof from the rest of the witnesses, and resemble each other in this particular, that they go through the whole case. They are, indeed, the great witnesses to prove it; they are the witnesses for the bill; the others being confirmatory only of them; but, as willing witnesses are wont to do—as those who have received much and been promised more, they were zealous on behalf of their employers, and did not stop short of the two main witnesses, but they each carried the case a great deal further. This is, generally, with a view to their relative importance, the character of all the witnesses.

Now only let me entreat your lordships attention, while I enter on this branch of the subject, a little more in detail. I have often heard it remarked, that the great prevailing feature of Majoochi's evidence—his want of recollection—signifies, in truth, but little; because a man may forget—memories differ. I grant that they do. Memories differ, as well as honesty, in man. I do not deny that. But I think I shall succeed in showing your lordships, that there is a sort of memory that is utterly inconsistent with any degree of honesty in any man, which I can figure to myself. But why do I talk of fancy? for I have only to recollect Majoochi; and I know cases, in which I defy the wit of man to conceive stronger or more palpable instances of false swearing, than may be conveyed to the hearers and to the court in the remarkable words "Non mi recordo—I do not remember." I will not detain your lordships, by pointing out cases, where the answer, "I do not remember" would be innocent, where it might be meritorious, where it might be confirmatory of his evidence, and a support to his credit. Neither need I adduce cases where such an answer would be the reverse of this—where it would be destructive to his credit, and the utter demolition of his testimony. I will not quote any of those cases. I shall content myself with taking the evidence of Majoochi as it stands: for if I had been lecturing on evidence, I should have said—as the innocent forgetfulness is familiar to every man, so is the guilty forgetfulness; and in giving an instance, I should just have found it all in Majoochi's actual evidence.

Now, at once, to give your lordships proof positive that this man is perjured—proof I shall show to be positive, from his mode of forgetting. In the first place, I beg your lordships attention to the way in which this witness swore hardily in chief, eke as hardily in cross-examination, to the position of the rooms of her Majesty and Bergami. The great object of the attorney-general, as shown by his opening, was that for which the previous concoction of this plan by these witnesses had prepared him; namely, to prove the position of the Queen's and Bergami's rooms always to have been favourable to the commission of adultery, by showing that they were near and had a mutual communication; whereas, the rooms of all the rest of the suite were distant and cut off; and the second part of that statement was just as essential as the first, to make it the foundation of the inference of guilt which it was meant to support. Accordingly, the first witness, who was to go over their whole case, appears to have been better prepared on this point, than any ten that followed—more inferences—more forgetfulness in detail—perfect recollection to attack the Queen—utter forgetfulness to protect himself from the sifting of a cross-examination. "Where did the Queen and Bergami sleep?" "Her majesty slept in an apartment near that of Bergami." "Were those apartments near, or remote?" for it was often so good a thing to get them near and communicating with each other, that it was pressed again and again. "Where were the rest of the suite; were they distant or near?" says the solicitor-general. This was at Naples; and this is a specimen of the rest—for more was made of that proximity at Naples than any where else—"Were they near or distant?" "They were apart." The word in Italian was *lontano*, which was interpreted "apart." I remarked, however, at the time, that it meant "distant;" and distant it meant, or it meant nothing. Here, then, the witness had sworn distinctly, from his positive recollection, and had staked his credit on the truth of a fact, and also of his recollection of it—upon this fact, whether or not the Queen's room was near Bergami's with a communication? But no less had he put his credit upon this other branch of his statement, essential to the first, in order to make both combined the foundation of a charge of criminal intercourse, "that the rest of the suite were lodged apart and distant." There is an end, then, of innocent forgetfulness, if, when I come to ask, where the rest slept, he either tells me, "I do not know," or "I do not recollect;" because he had known and must have recollected that when he presumed to say to my learned friends, these two rooms were alone near and connected, the others were distant and apart—when he said that, he affirmed his recollection of the proximity of those rooms and the remoteness of the others. He swore that at first, and afterwards said, "I know not," or "I recollect not," and perjured himself as plainly as if he had told your lordships one day that he saw a person, and the next said he never saw him in his life—the one is not a more gross or diametrical contradiction than the other. Trace him, my lords, in his recollection and forgetfulness—observe where he remembers and where he forgets—and you will find the same conclusion following you every where, and forcing the same conviction. I will give one specimen from the evidence itself, to show your lordships he has no lack of memory when it is to suit his purpose—when it is to prove a story where he has learned his lesson and when he is examined in chief—when, in short, he knows who is dealing with him, and is only anxious to carry on the attack—I will show your lordships what his recollection is made of. You shall have a fair sample of his recollection here. I asked him—

The *Lord Chancellor*.—In what page of the printed Minutes, Mr. Brougham?

Mr. *Brougham*.—In page 47, my lord.

The Earl of *Liverpool* suggested, that the learned gentleman, when he quoted from the printed Minutes of Evidence, should specify the folio.

Mr. *Brougham* proceeded—I asked him, "Have you ever seen the Villa d'Este since the time you came back from the long voyage?" He had been examined in chief upon this, and had stated distinctly, with respect to the Villa d'Este, the state of the rooms, and I wanted to show the accuracy of his recollection on those parts where he was well drilled—"Have you ever seen the Villa d'Este since the time you came back from the long voyage?" "I have."—"Was the position of the rooms the same as it had been before with respect to the Queen and Bergami?" "They were not in the same situation as before."—Then the witness gives a very minute particular of the alterations—a small corridor was on one side of the prin-

cess's room on her return. "Was there a sitting room on the other side of it, not opposite, but on one of the other sides of it?" Now attend, my lords, to the particularity—"There was a small corridor, on the left of which, there was a door that led into the room of the princess, which was only locked; and then going a little further on in the corridor, there was on the left hand a small room, and opposite to this small room there was another door which led into the room where they supped in the evening"—"There was this supping-room on the right, there was a door which led into Bergami's room, and on the same right hand of the same room there was a small alcove, where there was the bed of Bartolomeo Bergami."—"How many doors were there in the small sitting-room where they supped?"—"I saw two doors open always, but there was a third stopped by a picture."—"Where did her royal highness's maid sleep?" "On the other side, in another apartment."*—Now, my lords, can any recollection be more minute, more accurate, more perfect in every respect, than Majoochi's recollection is of all these minute details, which he thinks it subservient to his purpose to give distinctly, be they true or be they not—I do not deny them—my case is, that much of what is true is brought forward; but they graft falsehood on it. If an individual were to invent a story entirely; if he were to form it completely of falsehoods, the result would be his inevitable detection; but if he build a structure of falsehood on the foundation of a little truth, he may raise a tale which, with a good deal of drilling, may put an honest man's life, or an illustrious princess's reputation, in jeopardy. If the whole edifice, from top to bottom, should be built on fiction, it was sure to fall; but if it was built on a mixture of facts, it might put any honest man's life or reputation in jeopardy. Now, I only wish your lordships to contrast this accuracy of recollection, upon this subject and upon many other points—a few of which I shall give you specimens of—with his not having the slightest recollection of a whole new wing having been added to the princess's villa. He recollects the slightest alteration of a bed-room or a door; but he has not the slightest recollection of the throwing up a new wing to that house. This memory of his at least is a capricious memory. But I will show your lordships that it is a dishonest one also. Of the same nature is his evidence when any calculation of time is required. He observes the most trifling distinction of time when it suits his purpose; and he recollects nothing of time when it is inconvenient for his object. In proof of this, I request your lordships to refer again to the celebrated scene at Naples. There this witness remembers down to minutes, the exact time her majesty passes, upon two occasions, into Bergami's room—upon the first occasion, she remains there from ten to fifteen minutes; on the second, from fifteen to eighteen minutes: that is to say, taking the medium, sixteen and a half minutes, true time. Upon another occasion, he tells you an affair lasted a quarter of an hour. Upon another occasion he fired a gun, and then altogether fifteen minutes elapse—a quarter of an hour there. He is equally accurate about three quarters of an hour in another instance; that is, at Genoa, which I have spoken of before. The other instance was on the voyage. All this was in answer to my learned friend; all this was in the examination in chief; all this was thought by the witness essential to his story—all this garnishes the detail of which the story is made up, and gives it that appearance of accuracy which was essential to the witness's purpose. But when I come to ask him the time, and when the answer would be of use to the Queen—when it was of use, not to the prosecution, but to the defence—see how totally he is lost! then he does not know whether they travelled all night, whether they travelled for four hours or eight hours. In answer to a question upon that subject, he says, "I had no watch, I do not know the length of time." No watch! possibly. And did not know the length of time! very likely. But had you a watch when you saw the Queen go into the room of Bergami? Did you accidentally know the time when it suited your purpose to know it to a minute? Why know the precise time so accurately on one occasion, and be so totally ignorant of it on another? He pleaded the want of a watch only when it would have suited the purpose of the defence and brought out the truth; or, what comes to the same thing, have convicted himself. With respect to the category of numbers, he cannot tell whether there were two or two and twenty sailors aboard the polacre.

* See Vol. 2, p. 849.

He cannot tell with respect to place, that other category of his deposition. Although he slept in the hold, he does not know where the others slept—he cannot tell where they were at night or by day—he knows they were on deck in the day, but he cannot say where they were at night. In short, I ask your lordships, whether a witness with a more convenient memory ever appeared in a court of justice?

But this is not all, my lords. There is much in the evidence of this man, in which the answer, "I do not recollect," or, "I do not know," cannot, by possibility, be true, if the answers given in the examination in chief be true: as, in the first instance which I gave you at Naples; if the minuteness sworn to in his examination in chief was true, and founded in fact, it is impossible that he should have no recollection of the matters to which he was cross-examined. If it was true, that the rooms and doors were as he described them, he could not, by possibility, know and recollect that fact, and be in total ignorance of the other parts of the house. In the same manner, when I examine him respecting Mr. Hughes, a banker's clerk at Bristol, he knows nothing of the name, nothing of his being a banker's clerk, never knew a banker's clerk, has no recollection of him. But when he sees that I have got hold of a letter of his which he knew nothing about at that time, which he perhaps forgot having committed himself by—the moment he sees that, and before I ask him a single word to refresh his memory, you plainly see by his demeanor and the tone of his answer, that he had never forgotten Mr. Hughes, and that he never had forgotten that he was a banker's clerk. "Oh!" he says, "I was in the habit of calling him brother, it was a joke on account of the familiarity in which we were." Thus it appears, that the familiarity makes him forget a man of that kind, although he says that familiarity was the ground of his calling him familiarly and habitually "brother." It was manifest, that Majoochi was not very well pleased to recollect all that passed in that family, he being a married man, and having made a proposal of marriage to a female there, which he attempted to laugh off—with what success, I will leave your lordships to judge. He was not willing to recollect the name, or trade, or connection with that family, until he knew that all was known.

But, my lords, before we have done with Majoochi, we have other instances of that extraordinary instrument, as it has been called, I mean, memory: we have other instances of its caprices. Your lordships recollect the shuffling, prevaricating answers he gave respecting the receipt of money. He first said, he had received money from lord Stewart to carry him to Milan. He afterwards, twice over, swears he never received money at Vienna from any person—then comes the answer, which I can only give in his own words; for none other will give an adequate idea of his style. He says, "I remember to have received no money when I arrived at Milan; I remember I did not: 'non so;' I do not know: 'più no;' more no than yes: 'non mi ricordo;' I do not remember."*

Now, my lords, I have a little guess what sort of an evidence this Majoochi gave when he was laying the foundations of that favour which he has since uninterruptedly enjoyed in the counsels of our adversaries. I mean, the attorney and solicitor-general. When he was laying these foundations, deep and wide, upon which his fortune was to be built, your lordships will perceive, that he recollected a great deal which he is now ignorant of. In the opening speech of my learned friend much was stated which this witness was expected to prove, and of which I have before given your lordships an instance or two, and which I will not repeat, further than to remind your lordships, that Majoochi was to have proved the kissing in the room between that of the princess and Bergami at Naples. On the contrary, the witness negatives it in the completest manner, by his saying it was only "whispering," and not kissing. This single instance shows the whole character of this man's testimony; but I will remind your lordships of one or two others, not so striking from the nature of them, but just as fatal to the credit of the witness; because they all show, that he had told one story to the instructors of my learned friends, from which they put their questions, and another to your lordships. When questioned here as to those points, he was staggered for some reason; probably from knowing the facts and documents which I had got in my possession, but more probably from having forgotten part of his story. This is just one of

* See Vol. 2, p. 873.

the means by which to detect a contrived plot. This partial forgetfulness is much more likely to take place, where the whole is an invention, than where there is truth at the foundation of the testimony. So it is in this case. Majoochi recollects part of his testimony. "Yes," is ready for the question: but parts of it he did not recollect. For it is perfectly evident, that what a person has actually seen is more intensely and firmly impressed on his mind and recollection, than what he has invented and imagined. I am referring, my lords, to the solicitor-general's examination of Majoochi. He is asked, "Did you bring Bergami any broth?" "Often." He then states, that he was ordered to sleep in a cabinet adjoining Bergami's room, and that when there, pretending to be asleep, the princess passed through to the room of Bergami, and then he is asked, "After the princess had entered the bed-room of Bergami, did you hear any conversation?" —that would have been enough; it is not a leading question, but it would have been enough to make the witness recollect; but conversation was not what my learned friend was after—"Did you hear any conversation, *or any thing else.*" That was a hint. The man had said something before, which had been taken down, and was in my learned friend's hand. Now, there was something there which he had said before, and my learned friend wanted to get that out here. If it had been true, why should not he recollect it? But he forgot it. He forgot part of his own invention; a situation to which a certain class of men, that I shall not now mention, are often exposed. So my learned friend, skilfully enough, said, "Did you hear any conversation, *or any thing else*, pass between them?" "Only some whispers." Now, do your lordships want to know whether my learned friend meant whispering? I say, No. I say, I read as much as if I saw the printed paper which was in his hand. My learned friend, the attorney-general, had opened very differently; but, besides, from the examination of the solicitor-general, it is evident, that more than whispering was expected. If Majoochi had never before said, that something more than whispering had passed between the parties, my learned friend would have been satisfied. But he proceeds to ask him, "Do you recollect having heard or observed any thing when the princess was in Bergami's room the second time?" "Whispering conversation,"* says he again.—Another instance of the same sort occurs, and I hope it will not be thought too minute to go into it; for it is only in this way that conspiracies are detected. My lords, there was a story told about the princess riding on an ass. "At Genoa, you saw her royal highness riding upon an ass?" "Yes." There was a great deal more in his former statement than he dared say now. "Did you, upon these occasions, make any observations as to any thing that passed between the princess and Bergami?" "Yes."—My learned friend thought he was quite secure there. It is not a thing that happens every day to see a princess of Wales riding about on an ass. "State what passed at the time she was riding on an ass?" "He took her round her waist to put her upon the ass." My learned friend thought he was safe landed. "What else?" "He held her"—Aye, that will do very well—a great deal may be done with the word "holding"—a great deal depends on the tenure—"He held her hand lest her royal highness should fall." Aye, that won't do. My learned friend is not satisfied with that. Indeed, he must have been satisfied easily, if that had contented him. But, having something in his hand which the witness had sworn to before, and convinced it must be brought to his recollection again —not knowing he was trying to do a very difficult thing, namely, to make a false swearer recollect his fiction, but trying, as he thought, to make a true man recollect what he had actually seen —my learned friend proceeded—"Did you make any other observation?" "I have made no other observation—they spoke; they discoursed."† And there are a number of anecdotes of the same sort—the breakfast at the Benedictine Convent, and other things, which were equally inventions—with this difference, that, as always happens to men engaged in such a vile concern, they forget parts that are just as specific and clear as the parts they recollect; and which, if they had been true, they would have recollected just as well.

I might remind your lordships, upon this head of Majoochi's evidence, of the incredible nature of his story respecting

* See Vol. 2, p. 808.

† See Vol. 2, p. 810.

what took place at Naples. He would have you to believe, my lords, having free access to the bed-room of Bergami, through other rooms, in which no persons slept—which access, he was compelled, after repeated prevarications, much equivocal swearing, and several positive denials, at length to admit, after a very pressing examination — having admitted that there was this secret, easy, safe access to that place of guilt, the bed-room of Bergami, he states, that she preferred the other way, where she knew Majoochi slept, where she saw that he slept in a bed without curtains, in a room so small, that she could not go through without almost touching that bed—in a room in which there was a fire to give light. But, what is the most monstrous thing of all, he tells you, that her majesty, in order to make her detection inevitable, as she passed through the room, went to the bed and looked him in the face, to ascertain whether he was asleep! Now, my lords, this whole story defeats itself, and discredits the teller. You cannot believe it; it carries its own refutation along with it. What! my lords, are you to suppose that her majesty voluntarily passed through a room where she must have been seen if the person was awake, when she knew she might have gone another way, where she would not have been seen? She knew, my lords, that Majoochi slept in that room—she knew the disposition of his bed—she knew that there was a fire kept in the room;—knowing all this, she voluntarily passes through it, stopping in her way to look the witness straight in the face! My lords, I say, that this is a plain invention — an invention natural enough to come into the head of a person who lives in a country where nightly robberies are committed. I will not say that this witness is a person who had known more nearly that offence, and the precautions taken by those who commit it; but he, at least, was surrounded by adepts in the art, and we generally find in stories of robbers, that identical particular inserted—the robber comes to the bed of the lady (and if there is a lady concerned, so much the better) and looks with a candle near her face, to ascertain whether she is asleep. If she is asleep, it is all well contrived; but if she is awake, and might give the alarm, he does not care about the alarm, and coolly retires. It is very wise and prudent in the robber to take this precaution. But, for a person who is going to commit adultery in the next room, whose face is as well known to the man in bed as any face that can be mentioned, to go up to his bed-side with a candle, in order to discover whether he is asleep or not, is a proceeding altogether incredible. What, my lords, would not the simple fact of her majesty having been seen in that room, under such circumstances, have exposed her? Would not the fact of being detected in looking in the face of Majoochi, have of itself, condemned her? The tale is most monstrous and incredible. But it is providentially and most happily ordained, for the detection of guilt, and the justification of innocence, that such inventions are often carelessly put together; and, in this instance, in particular, there has been but little caution used in putting the materials together; and this part has been peculiarly thoughtlessly cast.

Now, my lords, I wish, before I dismiss my observations on these stories, I might recall to your lordships attention what this witness has said on another point. He told you, that Bergami began to dine at the table of the princess at Genoa; when it is notorious that he did not begin to dine with her until some months afterwards. I might recall to your lordships attention that, in speaking of the night-scene at Genoa, he does not recollect Vinescati, the courier, arriving: even he says, as the thing is much mixed up with fiction, he had forgotten that, and he did not remember his arrival at all—"Do you remember at any time of the night knocking at the door of Bergami's bed-room, and endeavouring to wake him?" "I do remember."—"Upon what occasion was that? for what purpose?" "It was in the night when Vinescati came, and I went to knock." Then, recollecting the contradiction, he said, it was not the night Vinescati arrived, but the night thieves got into the house, and then he drops the courier altogether.

But, my lords, I come to what happened late in the day. Your lordships recollect the account this witness gave of his leaving the service of her majesty—an account which contains as much gross and deliberate falsehood as ever polluted the walls of a court of justice; and allow me here, my lords, to observe, that where you see one material part of a person's evidence grossly and palpably false, it dispenses with the necessity of going more into detail—it is not necessary to prove

him a perjurer throughout—the whole of his evidence must be discredited—nothing that falls from the lips of a perjured man ought to be entertained. My lords, in giving you an account of his leaving the service of the princess, the witness thought necessary, in order to raise his character, I suppose, to flourish about the cause of his quitting her service. He denied that he had been dismissed by her royal highness. He said that he left the service, because he did not like the bad people by whom she was surrounded. This he said, for the double purpose of raising his own credit, and debasing the Queen's and the society by which she was surrounded. But, my lords, this story is false; and I will show the falsehood from his own mouth. When a question was put to him, "Did you not apply to be taken back?" what was his answer—"I do not recollect." Here, my lords, you see how he defends and protects himself; for if he had answered, No, he knew we might have called a witness who would have convicted him at once. He was then asked, "Did you ever apply to Schiavini to make interest for your being taken back?" He answers, "Once I did." Now a man might have recollected that, after being told, and might innocently have forgotten in answer to the first question; but then he would not have immediately recollected all the circumstances; for, the moment that string was touched, his recollection was entire, his forgetfulness quitted him, and he told us the whole history of the matter; and a very material thing it is for your lordships to attend to. He says, "Yes, yes"—*Si, si*, was his expression; but it was in a sort of joke, just as a person applies "I made the application in joke." That may be so; but if he did not make it in joke, he has perjured himself; if he did make this application in joke, to what follows, he must have answered, No. "Did you or did you not make repeated applications to Hieronimus also to be taken back into her royal highness's service?" This could not be all a joke; you could not have joked with several persons on the same string. "*Non mi recordo*"—"this I do not remember." Now, I say, my lords, that either this last "*Non mi recordo*" is gross and wilful perjury, or the first story is gross and wilful perjury, that he left the Queen from his horrors of the bad people by whom she was surrounded, or that he made his application to Schiavini in pure joke. There is no way out of this dilemma. The two stories are utterly inconsistent. But your lordships recollect the way in which he told you that he never wished to go back to his service. It was done with some flourish and figure. He said, with some indignation, "Rather than go to serve her royal highness, on account of the persons that are about her, I will go and eat grass."* I ask your lordships, is that the saying of a true or a false man, when he pretends that he would rather eat grass than go back to a house, where he made one application which he pretends to have been a joke, and afterwards will not swear he did not make several applications to get back to the same bad house? My lords, here, I say, is developed the mystery of Majoochi and his *non mi recordo*. My lords, this was his protection and his shelter. My lords, I say that rank falsehood appears on the face of this part of the evidence, take it one way or the other; and I care not which of the two branches of the alternative is taken.

My lords; I now wish to call the attention of your lordships, for a moment, to the next witnesses; but it shall only be for a moment; because I have already anticipated, in part, what I had to say of them—I mean those well-paid swearers, the captain and the mate of the polacre. Now first, as to the mate, there is something in the demeanor of a witness more consonant to a candid and a true story, than the pertness with which that person answered several questions; and all those who have been accustomed to see witnesses in a court of justice know, that those who are stating falsehoods are extremely apt to give flippant and impertinent answers. The mate of the polacre is precisely a witness of this kind. Upon being asked, "Was the little gun you spoke of upon the deck?" he answers, "On the deck, we could not carry it in our pocket." I only mention this, because my learned friend, the solicitor-general has said, that he is a witness of great credit. Again, when asked, "How did you travel from Naples to Milan?" he answers, "In a carriage; I could not go on foot." I only do this to remind your lordships of the manner of the witness, which I should not do, if he had not been said to be a witness of the most perfectly correct demeanor on the present occasion.—But I pro-

* See Vol. 2, pp. 859, 888.

ceed to the substance of his evidence—I will venture to say, that a better paid witness—a better paid Italian—for any work or labour, has never yet come to our knowledge. He is paid at the rate of 2,000*l.* sterling a year—he was the mate in that voyage of a trading vessel in the Mediterranean—he is now the fourth part owner of a vessel, upon his own account. So that to give him a sum in proportion to what he makes when at home—to make it a compensation instead of a reward—that vessel must earn 8,000*l.* a year; which is somewhat above an income of from sixteen to eighteen thousand pounds in this country. There is not a ship-owner in all Messina, that makes half the money by all the ships he has of his own proper goods and chattels. In that country, a man of two or three or four hundred pounds a year is a rich man. Fifteen hundred pounds a year is a property possessed by none, except the great noblesse. Clear profits of 8000*l.* a year there!—their names would resound over all Italy as the rich of the earth; and not a man of consequence would have gone from this country to that, who would not have tried to procure letters of recommendation to them. The Cobbler has lived in history, but in his time he was not so well known, as these two paltry shippers would be, if, instead of dealing out the instrument he did, these men kept their palaces and spent their four thousand a year. And this is his story; and if he does not mean so much as this, so much the better in another way.

My lords; the Captain of the vessel, as might be expected, is paid in a much higher way than the mate. He is paid 2,400*l.* a year: he is fed, lodged, and maintained; every expense is paid, and this put into his pocket, and not for the loss of any profits. I have hitherto been considering it as a compensation for the loss of his profits. But his ship is not here; to use the mate's own mode of speech, he did not bring it here in his pocket; though the owner comes to England, the ship is employed in the Mediterranean; and he is paid this—though he attempts to deny it—he is paid this as a recompense and not as a compensation. My lords, the same arguments apply to the Captain, in a greater degree, and I shall not go through them. But, it appears there was a cause of quarrel between the captain and the princess of Wales. He tells you, with some *naiveté*, that what he had for himself, his mate, and the other twenty men of his crew, and for all his trouble, was a sum considerably less, about a fourth part less, than he receives now, for coming over to swear in this business against his antient freighter. But your lordships recollect what he added to that. He says, "When we take on board royal personages, we trust more to the uncertain than to the certain profits." This is a great truth, well known to many present, that something certain is often stipulated for, but that something more is often given by way of honorary and voluntary compensation. Then, my lords, I only stop here for one moment, to remind your lordships, that according to this, his expectation is not limited to what he gets, namely, 2,400*l.* a year, for coming here to swear against the Queen—but he says, he has been employed by a royal person; and he tells your lordships, that the ascertained compensation bore no proportion to the voluntary reward which he expected from her majesty—how much less, then, has he a right to limit the bounty of her illustrious husband, or of the servants of his majesty, who had brought him here—if he serves them faithfully—if the case in his hands comes right through, and no accident happens! If he should succeed in all this, he would then get what would make a mere joke of the 2,400*l.* a year; though that would be infinitely greater than any shipper ever earned by the employment of his vessel in the Mediterranean Seas.

But, my lords, independent of the hope of reward, there is another inducement operating on the mind of this witness from another quarter. Is there no spite to gratify? The whole of his testimony, my lords, is bottomed on revenge. I have a right to say this, because he has told me so himself. He has distinctly sworn, that he had a quarrel with Bergami, the Queen's chamberlain, whose business it was to pay him the money; and that he complained to his own ambassador, that Bergami had kept back from him 1,300*l.* which he claimed. What happened then? "I have made some application, some demand. When I came here last year, I gave a memorial to my ambassador, count de Ludolph, and I stated, that as I believed myself to have served the British government, because I had had the honour of bearing the English flag, I expected the present which I had

not received ; and on account of this memorial which I gave to count de Ludolph, the English government have known me to be Vincenzo Gargiulo of Naples."* Now, I mention it as a circumstance which may strike different minds in different ways, but as not immaterial in any view of this case, that the only knowledge the prosecutor of this case has of this witness is, that he made a complaint against the Queen and her chamberlain, for not having paid him 1,300*l.* that he said, they owed him ; and he adds, that he was advised to go to London to see after that sum of money. I warrant you, my lords, he does not think he is less likely to see his way clearly in the pursuit of his claim, in consequence of the evidence which he has given at your lordships bar.

My lords ; there are other matters in the evidence of these two men which deserve the attention of your lordships. I think, my lords, that a princess of Wales, on board a vessel, sitting upon a gun, with her arms intertwined with those of her menial servant, and sometimes kissing that servant, is a circumstance not of such ordinary occurrance in the Mediterranean, as to make it likely, that the captain or mate would forget the most important particulars of it. Yet they do forget, or at least they differ—for I will not allow they forget—they differ most materially in their history of this matter. The mate says, that the Queen and Bergami were sitting on a gun, and that they were supporting each other. In the same page,† he says afterwards, they were sitting near the main-mast, the princess sitting on Bergami's lap. Now, the difference between sitting on a gun and near the main-mast may strike your lordships as not important. I state it, because the mate considers it of importance—therefore, I conceive he has some motives for it ; he means to say, I place my accuracy on these details, which I give at my peril. Accordingly he says, that when he saw the Queen on Bergami's knees, it was not on a gun, but on a bench near the main-mast ; and not one word about kissing do I see in the mate's evidence. He forgets the most important part of the whole. For which reason, your lordships will conclude with me, I think, that he does not confirm the captain. The captain swears differently. He says, "I have seen Bergami sitting on a gun, and the princess sitting on his knees, and that they were kissing."* But do they speak of the same thing ? Yes, if they are to be believed at all ; for the captain says immediately after, that the mate saw it as well as himself. The mate, however, never says he saw it ; and my learned friends did not dare to ask him if he had ever seen it. The captain says, they saw it together ; yet when the men are brought to give their evidence—and they are brought immediately one after the other—you see the consequence. They totally differ in their account of the story, and differ in a way clearly to show, that that story cannot be true. Now, what think you, my lords, of this man's desiring you to believe—of his expecting you to believe—that he was a man of that strictness of conduct, and his mate so pure a youth, educated in that primitive, ante-diluvian Garden of Eden, Naples, and Messina ;—that, when he saw a lady go near a man, not touching, observe, but leaning over the place where he was reclined—nothing indecorous, nothing improper, nothing even light—but only leaning towards the place where he was reclining—he immediately desired his mate to go away, because, besides being his mate, and therefore under his especial care in point of morals, by the relation of master and mate—he was also his distant relation, and therefore, by the ties of blood also, he had upon his conscience a responsibility for the purity of the sights which should pass before that mate's eyes, and therefore he could not allow him to remain for a moment near that part of the ship, where these two were, because they appeared to be approaching towards each other ! Perhaps there may be those who believe all this—who think it a likely account of the matter. Observe, my lords, he never says, that the Queen ordered them to go away—that any order to that effect came from Bergami. No. The guilty pair never interfered—they were anxious that all the crew should see them—but the virtuous Gargiulo, reviving in the modern Mediterranean a system of morals far more pure than ever antient Ocean saw, would not suffer his mate to see that which might happen, when two persons, male and female, did not touch, but were only near each other. My

* See Vol. 2, p. 930.
† See Vol. 2, p. 895.

* See Vol. 2, p. 920.

lords; there may be those who believe all this—I cannot answer for men's belief—but this I am sure, that if they do not believe it, they must believe another thing; namely, that Gargiulo the captain, and the mate Paturzo speak that which is not true. There is no way out of this conclusion. Either you must believe that the captain speaks the truth, when he gives this account of his motives, or you must believe that it is false, and that it is gratuitously false. But not gratuitous, as it respects his own character. He means to set himself up by it; to earn his money the better, and, if possible, to take in some credulous minds by it. Perhaps he may have succeeded—the event will show—in making greater that uncertain gain, the rate of which a man, when dealing with royalty, always increases, and in improving his chance of attaining the 1,300*l.* for which he has come over to this country.

My lords; one more statement of these men, and I have done with them. See, my lords, how well drilled they are! I hold them up as models for those who may practise that art. I hold them up as highly finished specimens of it in its perfection. And no wonder. They are well drilled—they are the best paid—and therefore they ought to be the crack specimens of that art. Much money had been laid out upon them, and their zeal has been in proportion to the *much* they have received, and the *more* they expect. See, my lords, how well they have been trained! But, happily, there are limits to this art, as there are to all human inventions. If there were not, God pity those who are attacked—God pity the innocent against whom this mighty art may be directed! They cannot perfectly get over the disadvantage of not having access to hear the evidence of each other; but see, when art can do it, how well it is done. The master and the mate are evidently descendants, lineal descendants, of the doctors of Bologna. Whether their names are the same or similar, like those of Harry the 8th's agent, I know not. I have not before me the hundred and ten names; but that they are their lineal descendants, no man can doubt. They are afraid to have it thought, for an instant, that they ever spoke to one another upon the subject of their evidence. Intimate in all other respects—living together in the Magazine of Evidence in this neighbourhood—sleeping in the same room, supping together, breakfasting together the very morning before they came here, again together the day after the first had been examined, and when the second was to come—the only subject on which they never talked, in all the intimacy of master and mate and blood and connexion, and entertaining an affection for each other that would do honour to the nearest connexion, and which I wish some of the nearest connexions had—the only subject, I say, upon which they never chose to enter, is the subject of the inquiry which now occupies all other men!

My lords; this is not peculiar to these two witnesses, but the way in which they tell it is peculiar; and is not marked, on the part of the gallant captain, by the judgment and skill which usually distinguishes him. "I am not a person," says he with indignation, "to state what I am obliged to say in this room—the subject is of such a nature that it cannot be talked of." What subject?—there is nothing so frightful in this subject which you came to support, and which you have witnessed. "No, no: but it would not be decent, it would not be creditable that I should tell to others all those things which we say in this House, before these gentlemen, these lords." "Did you ever say any thing to the mate upon it?" "Oh, never, never!" "Did you tell Paturzo last night, or this morning, that it would not be fit for you and Paturzo to talk about his examination of Yesterday?" "Yes, upon this matter."*

My lords; this brings me to say a word or two relative to a circumstance in the character of all these recruits of the Cotton Garden Dépôt. I must say, I think, that whatever injury this inquiry may do to the highest and most illustrious persons—however pregnant it be with every thing offensive to morals and to good taste—whatever mischiefs to the conduct of social life may arise, for some time to come, in consequence of the disgusting details brought forth in the course of this ill-omened proceeding, it must be matter of comfort, that there is one spot on the face of the island, one little land of Goshen, sacred from the squabbles which surround it, and that in this retired and pure society, those subjects which offend the delicate, which alarm the apprehensions of morality, and which go so well nigh to

* See Vol. 2, p. 926.

contaminate the morals of all classes of the community elsewhere, never, by any mischance, reach; and, strange to tell, my lords, that one little spot is neither more nor less than Cotton Garden, in the vicinity of this House! Let no man, then, suppose, that the danger is so great as it has been represented; or that there is any accuracy in the statement, or that there is any ground for the alarm founded upon it, that the whole island is flooded with the indecencies and impurities which issued forth from the Green Bag; for there is at least Cotton Garden, where the most strictly modest matron may go, without feeling, that if she carries thither the most chaste virgin, that virgin's face will ever there be suffused with a blush; for in that place, and amongst the witnesses themselves—amongst the agents of this plot—amongst the contrivers of it there—amongst those who appear before your lordships to give utterance to the abominations of their own fancy—amongst them, it turns out, that there is never one whisper heard on any thing even remotely connected with the subject which so much vitiates the mind and debases, I will say, the reputation of this country every where else! My lords, if your lordships chose to believe this, far be it from me to interrupt an illusion so pleasing, even by calling it such; for it is delightful to have any such spot for the mind to repose upon. If your lordships can believe it, do so in God's name! But if you do not believe it, I say, as I said before, you must believe something else—if you do not believe it, you must believe, that all the witnesses who have said so, and they are all those who are in that dépôt, are perjured again and again.

My lords; the course of my observations has now brought me to personages of still greater importance in this case, than either the captain or the mate, although my learned friend, the solicitor-general, has stated them to be witnesses of infinite importance—I mean Demont and Sacchi; whom I trust I shall be excused for coupling together, united, as they appear to be, between themselves by the closest ties of friendship, resembling each other, as they do, in all the material particulars of their history, as connected at least with the present story; both living under the roof of the Queen and enjoying her bounty and protection; both reluctantly dismissed; both soliciting to be taken back into place and favour—connected together since, by the same ties, living together in great intimacy, both in the native mountains of Switzerland, and afterwards upon their arrival in this country; remaining in this country about the same period of time, and that above twelve months; employing themselves during those twelve months in the way best adapted to fit them for the business in which they were to be employed, by obtaining access to our best classic writers, and attaining a knowledge of our language, though they modestly brag not of their proficiency in this respect, but choose to avail themselves of the assistance of an interpreter, which has this advantage, that it gives them the opportunity of preparing an answer to the question which they understand, while the interpreter is furnishing them with a needless translation.

My lords; the other points of resemblance are so many, that I shall not detail them; for your lordships will see them when I come to enter into the particulars of their evidence. But I wish, in the first place, to remind your lordships what sort of a person Mademoiselle Demont describes herself to be; because it signifies very little what we shall be able to show her to be. I had rather take her own account of herself. I cannot wish for more; and I am sure she could give us no less, with any ordinary regard to her own safety; for as to desire of truth, I say nothing upon this occasion. She is a person of a romantic disposition, naturally implanted in her mind, and which has been much improved by her intercourse with the world. She is an enemy to marriage, as she says in her letters. She does not like mankind in the abstract—"*potius amica omnibus quamlibet inimica*" I think we may say, from some things which came out afterwards—mankind in the abstract she rather objects to; but she makes an exception in favour of such a near friend as Sacchi, whom she dignifies by the title of an Italian gentleman; though he, ungrateful man, to justify her dislike of mankind, will not return the compliment, by acknowledging her to be a countess! But this Italian gentleman, whom she will not acknowledge to be a servant, came over with her. Marriage, she says, she does not like. She loves sweet liberty; and in the pursuit of this "mountain nymph" over her native hills and in this country, your lordships see the sort of company in which it lands her; namely, that of Mr.

Sacchi, not to mention Krouse the messenger, who goes over to fetch her, and brings the reluctant fair to appear as a witness upon the present occasion.

But far be it from me, my lords, to deny the accomplishments of this person. By no means. She is the most perfect specimen—she is the most finished model—of the complete waiting-maid, that I believe the world has ever seen actually existing. I believe none of the writers of her own country, or of ours, that she is now studying, will give a more complete specimen—neither Moliere, nor Le Sage, nor our own Congreve or Cibber—than that which she has given, without any assistance, in this House. I cannot deny her the greatest readiness—that she is at no loss in writing I cannot deny—that she is not at all sterile in her descriptions upon those subjects on which she enters, until she is brought into contrast with her own letters, and until my learned friend Mr. Williams begins his cross-examination. I cannot deny that she possesses a caution which would do honour to a Machiavel of a waiting-maid; that she is gifted with great circumspection; that she possesses infinite readiness at devising excuses and adjusting one part of her evidence with another; that they were well formed and well devised, and that if the thing could have been done—which it cannot by the eternal laws of truth—she would have succeeded in blinding and deluding her hearers. She showed great art in endeavouring to reconcile the stories she had told, with the contents of the letters which were produced; which letters she had not forgotten, though she did not know that they were still in existence and ready to be produced against her. Had she been aware of their preservation, and had her patrons been aware of their contents, your lordships would never have seen her face here; as you have not seen the faces of seventy other witnesses, whom they dare not call, and whom they have shipped off, like so much meat, or live lumber, for their native country. Far be it from me, my lords, to deny the accomplishments of this person! Nor do I deny that she is a great adept at intrigue; which, indeed, she piques herself upon. She would never forgive me if I denied her that merit. Her constant practice is, to deal in *double entendres:* Sacchi does the same. She in her letters to her sister; and he in his conversation with Mr. Marrietti. So that it is impossible to know what they mean. In short, to them may be applied what was said of old of a whole people—"*tribuo illis literas de multarum artium disciplinam, non adimo sermonis leporem, ingeniorum acumen, dicendi copiam; denique etiam, si qua sibi alia sumunt non repugno; testimoniorum religionem et fidem nunquam ista natio coluit: totiusque hujusce rei quæ sit vis, quæ auctoritas, quod pondus ignorant.*" I hear her candour praised by some persons—and why? Because she admits she was turned off for a story which proved to be false. I hear her praised too for her other admissions; and what were those? When she was asked, if she was sincere in such and such praises which she bestowed upon her majesty, she said, in some of them she was, but not in all—in a part she was, but not in the whole. "Were you in want of money?" "Never."—"Did you never write to your sister, 'I am in want of money?'" "It may be so; but if I did so, it was not true."—So there is no connexion *in rerum naturâ*, in this person's case, between the thing being true and her saying it, nor any opposition in this person's mind, in a thing being downright falsehood, and her saying and writing it. Truly, this is her own account of herself; and yet, to my no small astonishment, I have heard her praised for the candour with which she gave this account, by persons of moderate capacity.

My lords; I need hardly remind your lordships—I need hardly remind any person whose capacity is above the meanest—I need hardly tell any man who is not fit to be turned out in the fields among those animals whom he sometimes abuses by using—I need hardly say to any one, See what is the effect of this! Will it be said—be it—that she uses *double entendres*, that she tells falsehoods freely to gain her own ends; yet, that the candour of making these admissions, the ingenuousness of youth with which she tells you that she tells falsehoods by wholesale, so that she cannot be depended upon for a word that she utters, is a blandishment more seductive than all her personal charms, that it binds us to her, though not her personal lovers, and that we open our ears to all her tales because she is so engaging a liar, and acknowledges, with so much readiness, that there is not a word of truth in her late story? My lords, in any body but a witness you may be pleased with such candour—in any one except one whose whole credit depends upon the

truth of her story. You may say, "Poor, dear, innocent Swiss Shepherdess, how ingenuous thy mind!" but as to a witness, I never before heard so strange a reason for giving credit, as to cite the candour with which she admitted that she was not to be believed.

My lords; look at her letters—look at her explanations of them. I will not go through them in detail; but I will tell you—and the more you look at them the more you will be convinced of this truth, that her explanations of them are impossible—that the *double entendres* do not fit—that the explanations she gives do not tally with what appears in black and white. Her gloss does not suit her text: they are totally inconsistent; and the clear contents of the four corners of the document show that what she stated is untrue. The letters want nothing to make them perfectly intelligible. Her key does not fit her cipher. The matter only becomes doubtful as she envelopes it in falsehood, by the inventions of the moment, by her extempore endeavours to get rid of the indisputable meaning of her own hand-writing. My lords, a plain man knows how to deal with these things. He does not entangle himself in the miserable webs which this dirty working creature attempts to throw around him: he goes straight on, if he be a wise and an honest man, to see justice done to the object of a perjured conspiracy: he goes straight through, and believes those, and those only, who show themselves to be worthy of credit; and I pray to God, that your lordships may so believe, and not stand an exception, a solitary exception, to the conviction of all the rest of mankind! I hope your lordships will believe this woman to have been sincere, when she says that the Queen was good and innocent—that at that time she spoke the language of her heart in the eloquence of her feelings, and only has since been corrupted, when having been refused to be taken back into that service where she had never received aught but favour and kindness, she fell into the hands of the other conspirators against the honour of her illustrious mistress.

I forgot, my lords, in admitting the qualities of this female, to make another concession. She is kindly attached to her own sister. She loves her with a sincere affection. She tells you so. Her principle in her conduct upon this occasion, if she is believed, was anxiety for her service and interest. Now, I do not believe the story which follows: and it is not I who am calumniating Demont, because I am taking her own account of herself, which I do not believe. Mine is a plain story. She represents herself as affectionate towards that sister, heartily attached to her interest, only anxious to promote it—her sister just coming into the world at the innocent age of fifteen—and that she does all she can to obtain a place for that sister in a house which, if you believe a tittle of what she told you, ought to have the name, not of a palace, as the Attorney General says, but of a brothel. She has two sisters, indeed; she is equally attached to both; she describes the letter as written immediately after leaving those scenes, immediately after having been unwillingly turned out of this brothel—unwilling to leave it, she says, she was, although she admits that (differing from her sisters in that respect), she was rich and they were poor. She was under no necessity of submitting to that contamination, to which no necessity ought to induce an honest woman to bend. But though she was under no necessity, the honest Swiss chamber-maid balances the profits of her place against its disgrace; acting upon the principle of the Roman emperor, who, so that he raised a tax, was not over anxious as to the materials from which the filthy imposition was obtained. Though she admits that the house is worse than an ordinary brothel, and loves her sisters, the elder as well as the younger, she is occupied for six months after she leaves it; first, in endeavouring, as I told your lordships, to obtain for the virgin of fifteen a place, to initiate her there; and next, to keep the maturer girl of seventeen in possession of so comfortable and so creditable a situation. Such is Demont by her own account! I do not believe her so bad—I believe no woman so bad, as she now finds it necessary to tell you she is, because, unexpectedly, we bring out her own hand-writing against her. I believe every word of her letter to be sincere. I believe she did right and well in wishing to retain her own place, to keep one sister there, and to obtain employment for another; but I also believe, that having been driven thence, and disappointed in her hopes of being taken back, she invented the story she has now told, not knowing that these letters were in existence, and would be brought in evidence against

her. But she was sworn in Lincoln's-Inn Fields, before she knew of these letters being in existence. Had she known of this fact; I have no doubt she would rather have forgone all the advantages she has reaped, for coming forward as a leading witness in the plot against the Queen, than have made her appearance at your lordships bar.

So much for this lady. I now come to that amiable gentleman M. Sacchi. And I observe, my lords, with great satisfaction, a most pleasing symptom of liberality in the present times, as exhibited in the liberal reception which this witness has met with among your lordships, and in the pains which have been taken, both by those who produced him, and those who afterwards examined him, to increase the estimation in which it was wished that he should be held. It shows, my lords, how the age is improving. It shows how vulgar prejudices against Buonaparté and the French nation are wearing away. I well remember the time when nobody would have been very well pleased to bring forward, as a principal witness in a case of any kind, a man whose recommendation was, that he had been a soldier of Buonaparté, that he had served in any of his campaigns, and had been promoted by that Corsican adventurer—that usurper—that revolutionary chief—as it was the fashion to call him. Nevertheless, now that a witness against the Queen has this merit to boast of, it is brought forward, as if we had never heard any thing—as if we had never been sickened by whole volumes of abuse which had been poured forth, for the purpose of showing, that the very name of a French hussar, particularly if he happened to be a servant of Buonaparté, was just the name for every thing most profligate and abandoned. Now, my lords, without having ever been one of those who approved of the excess to which this abuse was carried on the part of ourselves and of our neighbours, I nevertheless cannot help thinking, that a cast-off servant, a courier who pretends to be a gentleman and now has his servant to wait upon him, and who says "Thank God, I was always in easy circumstances," though he was once living on the wages of a common courier—who can only say, that he was a common soldier in the French army, and was refused a commission in the Swiss army but was offered the place of a serjeant—would, a few years ago, have stood very little chance of mending his credit by this last adjunct. But, my lords, this is my least objection to Sacchi. I must be allowed to say, that the fact, that such men may have bravery enough to induce their masters to give them a pair of colours, is not the best positive proof of their being the most sincere and the most scrupulous of mankind. But look, my lords, at the account you have of him from himself. He too deals in *double entendres*. He has gone by three whole names and a diminutive; two of them we know, and the third we do not know; but by three names and a half has he gone. When he came to this country he began his *double entendres* as soon as he came in contact with his beloved Demont. He told two *double entendres*—if I may use four syllables instead of the short Saxon word. For if men will do this frequently and continually—if they will do it for a great object, they get into the habit of doing it for no object, but mere sport and playfulness. He tells first this *double entendre*—"that he had come in the service of a Spanish family." Then he tells another—that "he had a law-suit." We have never heard what that was, nor any thing more about it—that he came over in consequence of "a law-suit, a process with her royal highness." How, then, did he get into the situation in which he is now living with his own servant, seeing that he was so sorry at being turned away from the service of the Queen, where he was first employed at the lowest wages of a courier, and afterwards as a poor equerry? My lords, you must believe that he has got money nobody knows whence; or you must disbelieve the story altogether.

But, my lords, there is another similarity between Sacchi and Demont. He is asked, "How much money had you in your name at your banker's at Lausanne?" He answers—"Fifty Louis." "Will you swear you had not more than that at one time at that banker's?"—"I had no more than those fifty Louis." "Will you swear you never had a credit which empowered you to draw upon that banker for a larger sum than this?"—"I never had." "Have you never represented that you had a larger sum or a greater credit?"—"I do not remember to have said." Suppose any of your lordships were asked to speak to a fact, and you say—"positively not,"—"most certainly not,"—"I know it is not so,"—

nobody would dare to put the next question to you—at least I know very few of your lordships to whom they would dare to put it—"did you ever say so?" It could only be put to any one of your lordships in joke, or in consequence of the greatest familiarity subsisting between the parties. For you had answered that question before. If you are a man to be believed upon your oath, have you not answered the question, whether you ever told any person you had more at your banker's, by saying you know you had no more at your banker's? If you had no more at your banker's, you never could have said so; for if you had, you would have been guilty of a *double entendre*. But not so with Sacchi, or whatever his names, great or small, may be—"I may have done so—I cannot swear when I am in doubt."* The same as to his letters. He was asked, "Did you ever represent to any person, after you had left the service of her royal highness, that you were in a destitute condition?"—"Never." "Did you ever intreat any person of her royal highness's household to have compassion on your dreadful situation, after you had left her royal highness?"—"I have never been in a dreadful situation." "Did you ever represent"—there I was stopped—"Did you ever say"—but he had heard all the argument about representing—"Did you ever say to any person that your conduct towards her royal highness was liable to the charge of ingratitude with respect to a generous benefactor?"—"Never." "Will you swear that you never intreated any one of the suite of her royal highness, after you had left her service, to take compassion on your situation?"—"It may be." "Is that your handwriting?—a letter being put into his hands—"It is." "Is that your hand-writing?"—another letter being put into his hands—"It is."† Now, in these letters he has taxed himself with ingratitude in the plainest words. Luckily, he had forgotten those letters. Would any of your lordships shelter yourselves under such a despicable pretext as to say, "Oh! I did not *say* it, I *wrote* it?" *Litera scripta*—Your lordships shall see the Letters.

But your lordships will recollect what passed afterwards; for I now come to a providential accident—if I may use such contradictory terms, in compliance with the common understanding of them; I now come to an accident, but which I call a providence in favour of innocence—which is always the care of Providence. Sacchi was asked by my learned friend the attorney-general, "You have stated, that when you came to this country, you assumed the name of Milani, what was the reason why you assumed that name?" To which he answered, "I took this name on account of the tumult *(tumulto)* which had taken place, and of the danger I should have run if I had come under my name, knowing that I should have been known."—"When was it that you assumed the name by which you now go?" "It was immediately after the affair that happened at Dover."* Now, luckily, he had forgotten the date; happily, he did not recollect, that he came over to this country in July in the year 1819, and that the tumult at Dover happened in July 1820. These, my lords, are those providential circumstances by which conspiracies are detected; and but for which, every one of your lordships may be their victims to-morrow. Now, I call upon your lordships to see how the witness gets out of this. After a short interval in the examination, your lordships will find in page 459 of the printed Minutes, that which I will read for the sake of connection; and I do it the more freely, because it is the last quotation with which I shall trouble your lordships from this evidence. In answer to a question put to him by the attorney-general, Sacchi says, "I took this name on account of the tumult which had taken place, and of the danger which I should have run if I had come under my own name, knowing that I should have been known." "When did you assume the name by which you now go?" Then he instantly recollects, "It was immediately after the affair that happened at Dover." The name he now goes by, he assumed since the affair at Dover; the name of Milani he assumed a year before at Paris. My learned friend, the attorney-general, leaves him there—reasoning, from his knowledge of these matters, that he would only make bad worse. But one of your lordships took it up; and if there ever was a specimen of shifting and beating about the bush, to shelter a mortal from an unlucky scrape

* See Vol. 2, p. 1288.
† See Vol. 2, p. 1287.

* See Vol. 2, p. 1341.

arising out of a false tale, here you have it. The manner in which it was said—the confusion—the embarrassment—the perplexity—I cannot represent. I trust your lordships remember it. But enough remains upon the record, and by that I should be willing to rest the credit of Sacchi as a witness. "Had you ever gone by the name of Milani before you came to England?" "I took this name in Paris."—"At what time, in what year, did you take that name in Paris?" "Four or five days before I set out for England."—"When was that?" "In the month of July last year."—"What was your motive for taking that name at that time in Paris?" "As I knew that I was known in London by my own name, I endeavoured to shelter myself against any inconvenience that might happen to me." Not a word about what had happened to others! "What tumult had happened at that time that induced you to take that name?"—there is no more getting him out of the potential mood into the past tense, than there is of getting him out of knavery into honesty—"What tumult had happened at that time that induced you to take that name?" "I was warned that the witnesses against the Queen might run some risk if they were known"—forgetting, or wishing to slur over, that he had used the word "had," and wishing to substitute in its stead, another tense—"Had you been informed that they had actually run any risk?" "They had not run any risk then." Then what was the "tumult" which he had spoken of before? The most favourable opportunity is then given him which an honest witness could possibly desire, of correcting himself and of explaining the whole fact—an opportunity which counsel might not have been disposed to allow, but which the House very properly gave him. The former questions and answers are read over to the witness, and he is desired to reconcile and explain them. But, with all those advantages, observe, my lords, the lameness of the pace with which he hobbles off; for on the manner of doing a thing much depends. The former question and answer being read from the Minutes, he is asked this question, "Having stated in a former answer, that you changed your name to that of Milani in consequence of a tumult that had happened, what did you mean by that statement?" "Whilst I was at Paris a gentleman came, accompanied by the courier Krouse," who had been named before, "and the only time I saw him; and he," not Krouse, who might have been called, but the gentleman, who is not named—"he told me, that it would be necessary to change my name"—a kind man, though unknown; more kind than many we know better—"because it would be dangerous to come to England under my own name, as I had told him"—and these are inventions after the first part of the sentence—"had told him I was known in England under my own name; and that already something had happened on this account; not on my account, but on account of other people."—"Did he tell you that a tumult had taken place?"—now he is obliged to say something about a tumult, being led to it by the reading of the question—"He told me some tumult, some disorder."—"On what occasion did he say that tumult had taken place?" "He told me nothing else."—"You are understood to say it was with respect to other persons; what did you mean by other persons?" "He meant to say that some disorder had already happened, in regard to other persons, for similar causes."—"What do you mean by similar causes?" Now, I never saw a witness who was brought into a corner by such a question, who did not answer as this man has done—"I have repeated what that gentleman told me."—"Did you understand that it was with respect to witnesses who had come to give evidence in respect to the Queen?" "I believed it was for this object."—"Did you know that any witnesses had at that time come over to give evidence in the cause of the Queen?" "I did ~~not~~ know with certainty; but in the same way I was coming I might imagine"—the potential mood again—"that some other people might have already come."* And there I leave him. I do not deny that he might imagine this or any thing else. I do not deny that other persons might have come as he was coming. I admit it to be possible. But what I deny is, that any person could have told him that which he says they told him. That he may have invented that here, when he was pressed from an unexpected quarter, I admit to be possible; but that an unknown gentleman should have accompanied the well-known Krouse to Paris, should have told him a pure fiction of the brain, that no man could have

* See Vol. 2, p. 1315.

dreamt of a year ago, is as utterly impossible, as that a man should, by chance, have written the Iliad. My lords, only see how this stands; for I am afraid you do not feel it with the force it ought to be felt. We now all talk of the tumult at Dover, and the risk to which the witnesses are exposed, with familiarity, because they are matters of notoriety. But carry yourselves back to July 1819. Who of us all, even in his most fanciful mood, ever dreamt of any one part of that scene which has taken place, which we know, or of those consequences which we shall unfortunately never live not to know, have followed from these proceedings—a tumult in consequence of the arrival of flocks of witnesses coming, and those regularly insulted, because witnesses in the Queen's cause? All this is mighty familiar to us now. But go back, my lords, I say, to July 1819. Would any man then have suspected it? I say, my lords, it was an invention by the witness, to cover his retreat from the position into which he had been unwarily entrapped; and that in the month of July 1819, no man ever told him, that any tumult had taken place, or that any witnesses had been exposed to insult.

My lords; it is only by comparisons like these that perjury can be detected and conspiracies defeated. And this leads me to remark, that if you defeat a conspiracy by showing perjury, or untrue swearing and prevarication on points however collateral or trifling they may be, there is an end of the credit due to the witness and the proof of the conspiracy on the main points, though you should have left them untouched—which is not the case here. But, my lords, with respect to the witness Sacchi, I may as well now mention that part of the story which he and Restelli, a turned-off courier like himself, had agreed in trumping up: because, however disgusting, however offensive, the slightest allusion to it or the recollection of it, may be, I am sure your lordships will see I cannot avoid allusion to it, and a comment upon it. Do your lordships think it very likely, that any woman—I might almost say any miserable person who gained her livelihood by prostitution—would do that thing openly, in the face of day, with a menial servant four yards from her, without the slightest covering or screen, which Restelli tells you the Queen did openly, in the neighbourhood of the Villa d'Este? Do you believe that with the knowledge that a courier was travelling on one side of the carriage, with the certainty that if surprised asleep, that courier might open the curtain (for that is his story, that he always did it)—do you believe that, with the ruin to which such a discovery would expose her, by blasting her character even amongst the most abandoned of her sex, that any living person would go to sleep in the position described by Sacchi as that in which the Queen and her chamberlain were found by him in the morning in the carriage? But your lordships credulity must be stretched yet many degrees; for if you should have expanded it so as to take in the belief, that such a thing happened once, it will be nothing compared with what Sacchi has occasion for: for you must stretch it yet many degrees wider, in order to believe his story; and if you do not believe the whole, you must believe no part of it. This, he said, was the habitual, constant practice: it happened again and again; and he himself saw the self same thing several times. I appeal to your lordships—Is this probable? Is it in the common course of things, even with the most profligate and abandoned women, who are a disgrace to their sex? I say, my lords, unless you believe the parties to be absolutely insane, there is no accounting for such conduct.

My lords; there is an impossibility, I think, physically, in the story which Sacchi tells, at a time when the carriage was going at the rate of nine or ten miles an hour, over such roads as we know are found in that part of Italy, with two hands placed across each other, while the parties are fast asleep, without any power over their limbs. To overcome this difficulty would I think have required the evidence of philosophers, who had made experiments. And yet, my lords, we are called upon to believe this on the evidence of Sacchi, such as he has described himself to be; but who has given you no other description of the carriage, except that there were curtains to it. What if it be an English carriage, with glass and spring blinds! What if I show your lordships, by evidence, that it was an English carriage with glass and with spring blinds! And even if that glass were down, which is not very likely in the night, how was he to open the curtain without putting his hand in to touch the spring; which he does not say that he did? What if I

should prove, my lords, that Sacchi was not the courier who went that journey, but that it was another courier, of whom you shall hear more. But I do not say that it is necessary for me to prove this. I deny that I am called upon to prove this. The opposite side had plenty of witnesses to establish their case, if established it could have been. They had abundance of cast-off servants; and if cast-off servants would not answer their purpose, they had the servants now in the employment of her majesty. Now, why did they not call them? Again and again let me entreat of your lordships never to lose sight of this fact—for it is a cardinal, if not the cardinal point in this case—the accuser is not excused from making out his case. He has no right to put it upon the accused to call witnesses to prove herself innocent; seeing that it is the business of the accuser, by good evidence, whencesoever it may be drawn, to prove the guilt.

But, my lords, was there any other person in the carriage while this scene was going on? "Non mi ricordo" was the answer of Sacchi, adopting the language of the celebrated Majoochi. Now observe, my lords, the caution of this answer. That question did not come upon him by surprise. "I shall be asked," thought he, "whether there was any body else in the carriage. If I say there was any body there, nobody will believe it to have happened. If I say nobody was there, and it turns out that somebody was there, that will destroy my testimony, and therefore I must say, I do not remember." But he shall not stay there. I will drag him out. The first remark naturally would be—"this could not have taken place when any person was by—there must have been nobody else there." My lords, there was somebody else there, as I will prove to your lordships, during the whole of the journey. In the next place, my lords, after a person has witnessed such a scene as this—and that person a servant—is it very likely that, from that moment forward, his lips should be hermetically sealed? that he should never dream of confiding it to the easy ear, the willing ear, of his tender and gentle and soft friend Demont? that he should enjoy the intimate and delightful intercourse of her society, for months, both abroad and in this country, without talking of this, from a delicacy, I have no doubt, in their intercourse, far above that of all other pairs? He was aware that some had split from saying that they had never told it to any one until they told it at Milan.—Boatmen, masons, carvers, gilders, waiters, all the witnesses brought from Lombardy. But he, my lords, did not choose to say so. He had, by your lordships kind permission, seen the evidence taken at your lordships' bar, and had studied it, knowing, as he does, English. He did not choose to say, "I had told it to no one," but "I had told it to people, though I cannot name one of them now." I say, my lords, if it is clear, that such a thing could not pass and be seen without the eye-witness telling it again, it is just equally clear, that the eye-witness could not tell it again, without well recollecting to whom he had so told it.

My lords; as to the witness Kress and her story at Carlsruhe, I have only to add, that it is physically impossible it could have happened, inasmuch as she says she well remembers it was after the first night they arrived at the inn. She remembers that by the circumstance of her having been called in one morning at breakfast———

Earl *Grey*.—I would beg to ask whether the learned counsel is near concluding. If not, perhaps it might be desirable to adjourn now, the hour at which it was arranged the House should adjourn having arrived.

The Earl of *Liverpool*.—It would certainly be desirable that we should keep, as nearly as is practicable to the time which was arranged—a quarter of an hour would not be an object; but that probably would not bring us to the conclusion of the learned counsel's address.

The *Lord Chancellor*.—My lords, the counsel at the bar cannot possibly do justice to so important a case as this is, by binding himself to quarters of an hour, or half hours. As he is now beginning to comment on the testimony of another witness, this may be as convenient a time for stopping, as any other. I would therefore suggest that your lordships should now adjourn.

Ordered, that the further consideration and second reading of the said bill be adjourned till to-morrow morning.

HOUSE OF LORDS.

Wednesday, October 4.

The order of the day being read for

the further consideration and second reading of the Bill, intituled "An Act "to deprive Her Majesty Caroline Ame-"lia Elizabeth of the Title, Prerogatives, "Rights, Privileges, and Exemptions of "Queen Consort of this Realm, and to "dissolve the Marriage between His "Majesty and the said Caroline Amelia "Elizabeth;" Counsel were called in. Then,

Mr. *Brougham* resumed—

How comes it to pass, my lords, that with no want of care in the preparation of this Case—that with the greatest display of skill and management in all the parts of the preparation—that with boundless resources of all sorts, to bring these faculties into play, there yet should be one deficiency so remarkable, that even upon the names of the Witnesses being pronounced, it must strike every observer—I mean, that want of balance between the different countries from which the Evidence is brought, and that unfairness towards some great states, contrasted so manifestly with the infinite attention which is paid to others; so that while the Italian States, from the greatest to the pettiest, are represented on the present occasion by numberless deputies, I will not say of *all* ranks, but of all ranks below the lowest of the middle orders, when you come across the Alps you find Switzerland, the whole Helvetic League, appearing in the person of a single nymph, and the whole circle of the Germanic empire embodied in the personage of one waiting-maid at an inn—that from Vienna, the capital of that country, nobody appears at all—that from none of the other resting places of her majesty, in her tour through that her native land, does a single delegate arrive, that from none of her abiding places there, least of all from her place of nativity, where she was best known, is one deputy to be seen; and that, in fact, every thing on this side of the Alps is to be found in the person of that one chamber-maid or cellar-maid or assistant to the cellar-man or drawer—for in grave quarters doubts were raised in which of these capacities this Germanic representative was to be taken. But, whatever we might doubt as to her quality, with respect to her number there is no doubt, that she is the one, single, individual from that portion of the world, and that, save and except the Swiss maid, she is the one single individual, who is not Italian. I beg your lordships pardon—there are two grand exceptions, but they are my witnesses, not my learned friends, and I reserve them to open my case withal.

My lords; I now come to call the attention of your lordships to this single German individual who appears before you, and in proceeding to deal with whom, I was kindly interrupted by the attention of your lordships to the convenience of the parties yesterday; and here, as upon former occasions, I find myself obliged to have recourse to the witness herself, for her description of her own qualifications. She knows them best; she cannot be said to be an unfavourable evidence, for except in the single instance of the Queen as shown forth against her here, there never yet was known any person, extremely anxious to fabricate evidence against herself. Now Kress, to take her from her earlier years, appears by her own account to have embraced, at the tenderest age, the reputable, the unsuspicious, the unexposed office of a chamber-maid at a little German inn. If your lordships will calculate from the number of years which she mentions back to the time to which her evidence applies, you will find she was just turned of thirteen years when she first became such a chamber-maid at an inn where she was afterwards. The other places in which she served it is not quite so easy to discover; but still there is no very great difficulty, and any little impediment in the way of our research into this part of her history is removed by a little attention to what the object is of the person who alone creates that difficulty, and to the motives with which it was thrown in our way. I make Kress herself her own biographer; for she tells you she was in other places, what places? Mr. So, and So. "Mr. Marwey, what was he?"—"I was as his servant." She tries to sink, until pressed, what the particular occupation of the master was, and what the particular capacity of herself in that service; and then it comes out, that in all the instances, without one exception, in which she was in place, except when she was employed in the laundry of the palace of Baden, she was in all those cases in an inn, and in no other house. However often she may have changed her place, she never has changed her station.

My lords; she lets us a little more into her history afterwards, and into the na-

ture of her pretensions to credit before your lordships. First, we find in what manner she was induced to give her evidence; and I do intreat the attention of your lordships to it, because it shows, that if there is a want of witnesses here, particularly from Germany, it is from no lack of agency on the part of those who were preparing the Case against the Queen, for the agents in Germany are found in their accustomed number, with their usual activity, and with the command of their ordinary resources. And I must say, that reflecting upon the Milan Commission as an Englishman, and recollecting that the German agents are not our countrymen, I feel some satisfaction that there was a greater degree of impropriety shown in the conduct of the German agents than we have ever imputed to any one beyond the Alps. I introduce to your lordships fearlessly in support of this proposition, baron Grimm, the minister of Wurtemberg, the throne of which has been filled by the princess royal of England; though when I trace his connection with the parties in this prosecution—he and a person named Reden, (which Reden succeeded baron Ompteda in his mission to Rome, and is now there in that capacity, where he was one of those who dared to treat the consort of his royal master, who was his Queen as well as she is your lordships, with those insults which made it impossible for her to remain there, even if the defence of her honour had not imperiously called her hither)—Grimm and Reden, and another whose name does not occur to me, but who is also a minister of the grand duke where the scene is alleged to have taken place, were the active and the unscrupulous agents in this part of the plot against her majesty. The worthy baron, Grimm, in the zeal which he shows for his employers, I have no hesitation in saying, has scrupled not to throw away far from him all those feelings of decorum, which a man may not dismiss, even in the ordinary occasions of private life. It seems, however, my lords, that in affairs of diplomacy, that may be justifiable in a minister which would disgrace a particular individual—that that may earn him the applause of his employers which would call down upon his head the reprobation of every honest man in private life—that that may cover him with rewards, which he may falsely call honours, which would dishonour and disgrace him, had he been only acting in his private capacity. My lords, I say, baron Grimm did that which would have been attended with such effects against his character, if he had not been a diplomatic agent—to whom, I presume, all things are lawful.

Baron Grimm, my lords, was living in those apartments—they were his own by occupation—he heard that the Queen was about to arrive—he artfully gave them up. He accommodated her royal highness with the use of those rooms. He kindly left the principal apartment, and disinterestedly encountered the inconvenience of a change to other and worse lodgings. He courteously gave her the use of those from which he had himself departed; and, as soon as her royal highness, on the very day that she had left them, he returns again to the same rooms, and he is found with another coadjutor in this plot, running up and down—to use Barbara Kress's expression, "running about the rooms," examining every thing, looking at the furniture, prying into the beds, taking note of what had passed, that he might report to those who he thought would have been well pleased if he had gone upon such errands, but who I know and feel were above sending him upon such a dirty mission. But, my lords, in one character he does not appear. Active as this agent every where is as a runner of the conspiracy, sedulous and unscrupulous in his observations as he has been, regardless of his own dignity and forgetful of that of the sovereign whom he represents, as he has proved himself to be, he nevertheless does not condescend to make himself a witness—he does not adventure to come forward here—he does not show the same boldness to face your lordships and us, which he showed to face the reprobation of the public in his own country, and wherever else his conduct should be criticised. Here, however, the baron is not forthcoming—here he is not to be found—yet here he was a material witness, material in proportion to the importance of the matters which Barbara Kress alone has been brought to this country to swear to—of paramount importance, because Kress is the only witness who is brought to swear to any one of those particulars that are said to have passed at Carlsruhe—of still greater importance, when your lordships reflect, that because, as he entered the room at the moment the Queen left it, he must have been able, if Kress spoke the truth, to give confirmation to

her statement. The baron is, however, absent, and the only witness that could be obtained by all the skill, the industry, and the zeal of the several agents, to speak to this extraordinary fact, is this single German chamber-maid.

Let us then pursue, my lords, the history of the only witness whom, with all the means in their possession, and so little scrupulousness in using them, these agents have been able to gather from all Germany. Look, my lords, at the contradictory account this woman gives of her motives for coming over to this country. She twice over swore that she came upon compulsion—that she only came because she was forced—and you no sooner turn the page than you find that she made a bargain for compensation for the loss of time; but she was never promised any thing, no recompence, no *belohnung*, only an *entschadigung*, it was said while she was examined: but she would not say so, she would not adopt the expression tendered her; though offered to her, she would not put it into her mouth, but she said she came by compulsion, but at the same time had bargained for recompence. But what had she reason to expect without any express bargain being made? What reason had she to expect recompence? And in what liberality had she ground to hope it would be meted out to her? She shall again tell the story which she told, however reluctantly. None of your lordships can forget with what reluctance it was wrung from her: but, happily, still it was wrung from her. Your lordships will find the part of the examination I allude to in page 193 of the printed Minutes. She was asked, whether she had ever been examined before, and she answered, she had been at Hanover. The examination then was thus, "What did you get for going to Hanover?" "I received a small payment, just for the time I had lost." "How much was that payment?" "I cannot exactly tell; it was little, very little." Now this I pledge myself to the accuracy of—"little, very little,"* those are her words at page 193. Why then it was said, the less it was, the more easily it may be remembered; but it subsequently turned out, that it was not because the reward was so little, but because it was so great, that she could not recollect it. "It was little, very little." Very little! What is this mere nothing? What, my lords, if it was a larger sum by five or six times than her yearly wages—what, if it was a larger sum by ten times than her yearly wages—what, if this little, this mere nothing, was even greater than her yearly wages, including all the perquisites of her place! What, if added to the sum she got for another trip, to be examined at Frankfort—she having been absent from her home six days on one trip, and four or five on the other—what if, for one fortnight of a year, taking the going and returning into the account, this "very little," this mere nothing, which she cannot recollect, which she dismissed from her memory, and cannot now recall, because it was so little, turns out to be about double the sum, at all events more than half as much again, as she ever received, wages, perquisites, accidents included, in any one year, in her occupation of chambermaid! Now, my lords, will any man of plain ordinary understanding and capacity, even if he has not been accustomed to sift evidence—even if this was the first time he was ever called upon so to exercise his faculties—pretend to say that he can believe this woman, in her attempt to deny her receiving any thing—in her failure in the attempt to recollect what it was, because it was so little a sum, when it was a sum that must have made an impression upon her mind, not only to prevent forgetfulness of it, not only (if she spoke truth voluntarily and honestly) to make her have no doubt in her mind and no difficulty in telling it; but—what is equally of importance for your lordships consideration—to make that part of her evidence be pronounced false also, in which she says she expects no reward in future; when here you see, that her expectations for the future must be measured by her recollection of the liberality with which she has been treated during the past.

My lords; you will find, that the same equivocating manner pursues this witness through the details of the case. The way in which she describes herself to have left the room when she pretends to have witnessed one particular scene, in order to go to the countess of Oldi's room—her way of denying when examined, whether she went there to satisfy herself that the person she had seen, or thought she had seen, was the princess, clearly show your lordships, that she did not go to madame Oldi's room for that purpose, if she went at all; for, in answer to one of the questions put to her, as to the purpose of her

* See Vol. 2, p. 977.

going to madame Oldi's room, and whether it was not to assure herself as to whom she had seen in the other, she says, "I saw it was the princess"—which had nothing to do with the question as to the purpose of her going to madame Oldi's room, if the other account she gives was true, that she had no such motive in going to madame Oldi's room, which was not an immaterial point; for it was necessary for her to negative any such reason for going to that room, as otherwise she could not prove that she had certainly seen the Queen in the other room—*Non-constat* that the Queen was in that room, because madame Oldi was not the only other woman in that house. It does not prove it was the Queen because madame Oldi was in that room; but still the witness having gone there with the intention of ascertaining whether madame Oldi was there, was a complete proof, that she was not satisfied that the person she had seen was the person whom it was her interest and her well-paid employment to come forward here for her employers in this conspiracy, and swear she had seen.—I have mentioned to your lordships, that in the Carlsruhe case the ambassador Grimm does not come forward, with others who might have been brought—others, belonging to the place; others belonging to the Queen's suite—to the absence of whom the observation I had the honour of making yesterday, and which I may have occasion to repeat afterwards, at present most strongly and undeniably applies.

But now, my lords, we must again cross the Alps in pursuing the history of these witnesses. And there we find, that having dismissed all the principal performers in this piece, those that remain are mere make-weights, thrown in to give colour and consistency to the fanciful picture, and to all of whom are applicable the general observations upon such testimony, which I had the honour of submitting to your lordships yesterday. Nothing, I think, can strike any one as being more inconceivable, than that what all these witnesses swear to have seen take place, should have been permitted to be seen by mortal eyes by either of the parties to whom the depositions apply. The character and nature of those witnesses of the lowest class of society, of the meanest appearance in every respect, of the humblest occupations, some of them even degrading ones, after all the pains taken to render them produceable witnesses—the total failure to clothe them with any the least appearance even of ordinary respectability—all this must have struck every person forcibly who saw even but one of them here. I might remind your lordships of Guggiari, one of the boatmen employed on the Lake of Como, one of a boat of eleven, all of whom were present at the time, none of whom had any intercourse of a confidential nature with either of the parties—if we are to talk of two parties here, as the accusation compels me to do, contrary to all truth, and without any proof on their part. The impossibility of conceiving that any individuals in their ordinary senses, and possessing their common understandings, would have allowed such things to have passed before eleven men of this description, and so strange to them, must have struck every one who heard the evidence given, and have dispensed with the necessity, and almost excluded me from cross-examining a single one of this swarm of petty witnesses, who were filling up the gap between Kress and Demont. Why were none of the others called—none of the crew? Did he ever say to any person what he had seen? Had he ever from that moment to the present time whispered it? Yes, once. When—where? At Milan—to the Commission.* So it is with all the rest. Restelli, who swears to a scene too disgusting to be gone over in detail—who swears to that abomination having been impudently practised in the open face of day, without the most ordinary covering or shelter, and whilst he was at four paces distance, and where the turn of his head might have revealed it to him—this Restelli, like all the rest, for it is an observation that applies to every one of these witnesses of these strange abominations—as if the relation between cause and effect in this singular case was wholly suspended—had never opened his mouth on the subject—his lips are hermetically sealed, never to be opened again, until he appears before the Commission at Milan. Ten long months elapse—the same silence! Was he living the life of a hermit all these ten months? Did he, like a solitary recluse, never see mortal face, nor approach mortal ear? Was there no brother, sister, man, woman, or child, to whom he could whisper it? To child perhaps, profligate as I have no doubt he is, he might refrain from revealing it;

* See Vol. 2, p. 1264.

but to brother, to mistress, to wife, he might have communicated it—to boatmen, who have been, as I know, the means of corrupting not a few of those whom they have attended, for they have confessed that they have got into the way of telling stories for which there is not a shadow of foundation, because their passengers have got into the way of paying them for amusing them with those details by way of gossip—not one whisper ever escapes the lips of Restelli, or of the rest of the witnesses, as to the sights they had seen. Is it, my lords, the effect of seeing such sights to make men silent? Is it the effect of seeing such sights to make men even in the higher order of society silent? How many are there of your lordships, who have not had long official habits, whose lips are not under the regulation which such experience is calculated to give, whose whole movements of mind and body are not disciplined and squared according to the rules of a court, so as even to enact the courtier when none are present—how many even of your lordships, unless perhaps persons such as I have described, would not instantly have revealed it to some friend or other? But, my lords, I profess I can name none in private society—I can hardly name any gentleman, however prudent and discreet in his conversation, who not being entrusted confidentially, who only seeing what the party showed they evidently did not mean to be concealed, who under no seal of secrecy became acquainted with the fact, who would not necessarily, on having witnessed so strange a sight, have made those wiser for talking with him whom he might afterwards chance to converse withal. Yet these low persons, so different from persons in the upper ranks of life, are so much more discreet, so infinitely more upon their guard at all times and seasons, that it is persons of discretion and purity only whose ears would be contaminated, and whose cheeks would be crimsoned by the repetition of these details; for in no one case does any of the witnesses pretend to say, that he had ever told a living being of those strange and abominable sights which he had witnessed. My lords, were they sights of every day's occurrence? Was the princess of Wales kissing her servant openly and without drawing the curtains, a thing that happened on the Lake of Como, as often as the wind blew upon it? Was the princess riding with her servant in a carriage, in an attitude not to be named without a blush, an occurrence which happened every day? My lords, the sight said to have been witnessed was so strange, so unheard-of, so frightful, so monstrous, so portentous, that no person could have beheld it and kept it to himself for a single day. But, my lords, days, weeks, months, passed away, and then it was told for the first time before the Milan Commission. It was then, for the first time, that the lips of these persons were unsealed! But, my lords, I will not admit, that they concealed these extraordinary things for weeks or days or even hours. They may perchance have concealed it, from the instant that they invented it, upon hearing that their predecessors in their journey to Milan had been well paid for lesser slanders—they perchance may have kept it to themselves lest they should have covered themselves with infamy among those who knew this to be a falsehood—among their neighbours—but they kept it secret no longer than the journey to Milan demanded; and in no case, will I venture to say, was it kept longer in their breasts than from the time that it crossed their imagination to the time they went and earned the reward of their perjury.

But, my lords, you will see that in this instance we have no variety. There is, in this respect, a general sameness in the conduct of these witnesses. In other instances there are variations of importance. Do your lordships recollect Pietro Cuchi, the waiter from Trieste? Can any man who saw him have forgotten him? Does he not rise before your faces the instant I mention his name—unless many of your lordships should recollect the face, the never-to-be-forgotten expression of face, although the name may have escaped you? Do your lordships recollect that expression of physiognomy—those eyes—that nose—that lecherous mouth with which the wretch stood here to detail impurities which he has invented, to repeat the falsehood to which he had previously sworn at Milan? Do you recollect the eye of that hoary pander from Trieste? Did he not look, as the great poet of Italy describes the hoary letcher in the infernal regions to have looked, when he says that he regarded him with the eye, the gloating eye of an ancient tailor peeping through the eye of his needle? My lords, I remember that man well. The story he told is enough. But I will contradict him; for he, at least, shall not pass unpunished.

He, at least is here. He must be made an example of. I can contradict others: I can drag others to punishment: but he shall not escape. My lords, I will show you, by evidence undoubted, unquestionable, above all suspicion, that that man must have sworn falsely. I will prove it by the room itself. I can, if I will, prove it by the position of the door. I think his own account of the position of that door, in answer to questions put by your lordships, might almost save me the trouble of doing it. But I will show you more. I will show you, that what he swore cannot be true—either here, if your lordships put me to the necessity of it, or elsewhere, for the sake of justice: I can show, my lords, that the Queen slept at Trieste, in her whole life, but one night; that she came one day, went to the Opera, as he admitted she did (that was the only truth the witness told), left it on the morrow, and neither before or after ever crossed the threshold of the gates of Trieste in her days.

My lords; I dismiss the other witnesses of the same description. I take this filthy cargo by sample purposely. Let those who will, delve into the bulk—I will not break it more. That it is damaged enough, the sample tells sufficiently, and with a single remark I dismiss it. Recollect, my lords, those foolish stories, not only about the hand, but about the pictures, and about the bracelet chain being put round the neck, with I know not what other trumpery, got up for the purpose of variegating the thrice-told tale. And your lordships will, I think, agree with me, that the Italians who coined the fictions are pretty much the same now, that they were known to our ancestors to be, a few centuries ago. Whether Iachimo be the legitimate offspring of our great Shakespeare's mind or not may be doubted; but your lordships will readily recognize more than one of the witnesses, but one especially, as the own brother of Iachimo. How has he represented himself?

——————"I have belied a lady,
The princess of this country, and the air on't
Revengingly enfeebles me.—
——————Mine Italian brain
Can in your duller Britain operate
Most vilely; for my vantage, excellent;
And, to be brief, my practice so prevailed,
That I return'd with similar proof enough
To make the noble Leonatus mad."

My lords; the cases are the same. We have the same evidence, from the same country, and for the same purpose; almost with the same effects; and by the same signs, marks, and tokens, by an extraordinary coincidence, the two cases are sought to be substantiated.

And now, my lords, permit me, having disposed generally of the characters of the Witnesses, to call the attention of your lordships—and it shall be within much narrower limits than I could have done had I not necessarily anticipated the greater part of my comments on this part of the case, in my character of the witnesses who supported it; because, while I have been dealing with the case in that way, I have been of necessity led so far to anticipate, as to comment on the different branches of the case which each witness was called upon to substantiate—permit me, I say, to call the attention of your lordships to the several Heads, as it were, of charge—the several counts—if I may so speak of this strange indictment under the form of a bill of Pains and Penalties which is brought forward against her majesty.

Your lordships will recollect, that the first of these is evidently a Neapolitan scene. There the connection is alleged to have been first completed—there the parties came together and accomplished, for the first time, but with great freedom, and with long continuance, and without any restraint at all, the purpose which they appear—I will not say long—to have cherished, but to have conceived somewhere about ten days or a fortnight before. The princess of Wales (this is the accusation), having been theretofore a person of unimpeachable character, a person of unimpeachable life; proved to have been so by much stronger evidence than if she had never been suspected; proved to have been so, if there is truth in evidence, if there is benefit in acquittal, if there is justice in the world; proved to have been so, better than if she had never been tried, by two solemn acquittals, after two searching examinations; so much proved to have been so, that when one set of ministers had reported that she was clear and innocent of the charges brought against her, but recommended her to be censured for what some persons were pleased to term "levities," their successors in office were in no wise satisfied with this scanty acquittal, as they thought it, but determined that the censure for levities should be expunged, and recommended solemnly, that she should be in-

stantly received by her sovereign, her uncle, and her father, as the purest princess could be received who ever adorned the walks of royal life. This character having, by such trials, been supported—coming out of the fire purer, in the eyes at least of those who are supposed to favour the present charge against her—how do those who are thought to favour this charge, but I should deem unjustly thought—how do they say she demeaned herself the instant she left England? Arriving in Italy, she hires a servant, a person at least then in a menial capacity, of whom I shall afterwards have to say a few words. She moves towards Naples; and, in the course of a few days, certainly in less than a month, the whole of that intercourse commenced, the degradation of the princess is said to have been completed, and all restraint flung away, from the mistress of the servant she becomes the mistress of the lover, of a menial lover, plunging herself into a situation which even profligate women could not for years accustom themselves to. Now, my lords, the whole case against her majesty falls to the ground, if your lordships do not believe, that on the second night of her arrival at Naples the alleged connection between them commenced; because Demont and Majoochi have both sworn to facts, which, if true, nay, if the least of them are true, the connection must have begun from that night, and have continued. And, with what caution, my lords, is this carried on? Suppose that a long course of profligacy could not only bend the mind to the disgraceful circumstances, but render a woman incautious by habit—that is possible. But, it is not so here; for the first act is about the most incautious of the whole. I mean, my lords, her choosing to go where she must be observed, in order to avoid the safer passage to the room, through which it was highly probable no eye could watch her.

Then, my lords, only recollect the way in which the evidence is brought forward, and see the manner in which this case is offered to your lordships belief. How is the room prepared for the first night when these two guilty persons were to meet?—by placing in the room which was to be the scene of their first loves—loves so ardent, that to accomplish them, all regard for decency and decorum had in one instant been flung away, and all caution to conceal them was for ever abandoned—by placing in the room one small iron bedstead, of dimensions hardly sufficient to contain a single person, and only used upon a journey or in a voyage. This was the only preparation in a house, every room of which contained a comfortable bed. Nay, in that very room itself, there was another and a large bed, which the witnesses tell you was left untouched. The witness also tells you, in her first examination, that the larger bed was not much tumbled; but, a day or two afterwards, she mends this materially; I think on the third day. And then, in answer to a question put to her by my learned friend, Mr. Williams, who reminded her that she had said the large bed was not much tumbled, she said, "Yes, I said so when I was examined the other day, but I have since recollected something, and I can tell you more about it now;" and one of your lordships had that explained, and out came the story of the stains last of all—after she had again said, the second time mending the first account, that it looked as if two persons had pressed upon it in the middle. Last of all, she recollected stains; but what those stains were, she could not tell. No person examined her about it: but she did not much like my learned friend's operations the day before. She was not in good charity with Mr. Williams, after the second day's examination, which happened to be in his hands, and not in those of my learned friend the solicitor-general; and, accordingly, she then said she would tell him nothing more, or, as she said herself, she recollected now what she had forgotten then. What did my learned friend Mr. Williams say to her? What had passed in the interval to make her recollect one single tittle which the leading examination of my learned friend the solicitor-general, (I speak it not offensively), with the brief before him, ought not and could not make her remember then? Was it likely or probable she could forget so strong a circumstance as the situation of the bed, when she knew that she came here to prove adultery—when she felt, at every word she spoke, that she was here for no other purpose? My lords, farther, the witness volunteered to say, that the princess returned home early from the opera. I shall show, that she remained till the opera was over, in the presence of the royal family of Naples, and in the royal box. She said, that the Queen was in a state of considerable agitation when she

dismissed Billy Austin, for the purpose of being alone. She said that Billy Austin had been accustomed to sleep in the Queen's room. But I shall show your lordships that this had ceased long before. I shall show your lordships that he slept in the next room to her majesty, and that the door of communication was constantly unlocked. The witness said, that her majesty forbad him to come into the room; but she did not forbid him, in the most simple and effectual of all ways—by turning the key. She also describes the Queen as coming home early from the Opera, to do what no man can doubt was adultery, under all the agitation and perturbation of a bridal night. Yet, my lords, will any man believe, that this person, so circumstantial and minute on other occasions, with a perfect sense of the infinite importance to the tale to represent the bed not only as tumbled, which was not much tumbled, but as having been slept in by two persons, which was better;—will any man believe, that if she then knew or afterwards could have recollected, and if it was not a mere afterthought and fabrication, she would not have said at first, "Oh yes, the bed looked as if two persons had slept in it;" and then the stains would have been added, which she probably knows the meaning of, although, like Barbara Kress, she denies she understood them—But it is out of human probability, that persons should recollect, unless they understood them; otherwise, they are no more than ordinary marks or stains, which no person ever heeds, any more than the wind that passes over his head.

My lords; at Naples, another scene took place, to which Demont is the only witness. She tells you no time. She is aware of the consequence of that. She will not give you the means of sifting it, or expose herself to the risk of contradiction. She will not tell you, whether it was a week after their arrival at Naples, whether it was near the beginning or the end of their stay there, or towards the middle of it—but some night during their stay at Naples, she saw Bergami come out of his room naked, except his shirt, without stockings on, without a nightgown on, and moving towards the part of the corridor into which the Queen's chamber entered. She did not start back, she did not retire; but she moved on in the direction towards Bergami. And Bergami did not start back, and Bergami did not make any excuse, and Bergami seeing her moved on also; and she made her escape out of the door; and he still did not bethink him of making an excuse, but he moved on to the accomplishment of his guilty purpose, with more alacrity than almost a husband would have done, in going to the bed-chamber of his own bride. Your lordships will find all this in page 251 of the printed Evidence.* I hardly stop to refer to pages, because I do not rely on particular passages, but only draw your attention to the main and leading features of the case, which cannot possibly have escaped the recollection of those of your lordships who heard the evidence as given at your bar.

Let me now remind your lordships of the scene which is represented to have taken place at Catania. And observe, my lords, that here there are two witnesses who might have been called to speak to this transaction, if it really did take place, both of whom were opened by the attorney-general. "Two maids," says he, "were sleeping in the next room to that of the Queen; they both saw her come back from Bergami's room at an early hour of the morning; they both heard the child crying and the countess trying to pacify her; and they both must have known what all this meant." Now, the attorney-general not only does not venture to call both, but only one; but he does not venture to state, that these two women have ever communicated together, from that time to this, upon a tittle of what, that morning or that night, had passed. They never did communicate together—they could not communicate together—nothing of the kind had passed. The thing was false; but Demont alone is called. And what is the story as she tells it? Now, I pray your lordships to attend to it; for it is, if possible, more incredible, upon the face of it, from the multiplied improbabilities under which it labours, than that which I have just run over at Naples. My lords; Bergami usually slept, not only not near the Queen's bed-room there, but on the other side of the court, which formed the centre of the building—on the opposite side of the court was his ordinary bedroom while he was well: but he became sick; he was seized with a severe fever, and he was brought over from his usual room into another room, belonging, I

* See Vol. 2, p. 1115.

believe, to the countess Oldi; and there he was lying sick for some days. Now, is it not, my lords, a little extraordinary, that the scene of this amour at Catania should be laid—I will not say that it is odd that it should be laid in that room, though that was strange enough, considering it could only be approached through the room of the maids—but that it should have been laid at that time, when Bergami had a fever, and not when he was in good health? Bergami is there more as a patient than as a lover; and yet this is the particular moment chosen for those endearments which are left to be understood; and then her majesty must have Bergami placed just in that situation of all others, in which access to his bedroom was rendered the most difficult and embarrassing—the most impossible, when there were the two maids sleeping in the room between Madame Oldi's and his (for the Queen slept in that which had been Madame Oldi's room). The princess moved out of her room, and one of the servants had undressed her—this very witness had undressed her in her own room; and the story is, that she removed out of her room in the night, and returned in the morning—not that she was always lying in Bergami's room, but that she went there in the night, and coming back in the morning, she was seen by the maids returning. Is it not a marvellous thing, my lords, that this should be the mode of operation? that the thought should not strike her majesty, that, in the accomplishment of this purpose, she was running some risks without any inducements—risks similar to those which she ran at Naples in going through Majoochi's room instead of the empty room—when she might, by an alteration of the rooms, have rendered all safe and easy. She had only to place herself in the servants room or in Madame Oldi's then room, and there she could have had access to Bergami, or Bergami to her, without crossing the threshold of her maids door? But, if your lordships are to believe the representations made to you, all this is only in furtherance of, and in conformity with, the uniform tactics of her majesty, to multiply damning proofs against her own character, her own existence, happiness, comfort, and every thing dear to her in the world. For this is the plot she is in; and she is under a spell, if you believe the witnesses, never to do an act injurious to her character, without providing ample evidence to make that injury effectual.

And now I am told, my lords, that I can contradict all this by means of Marriette Bron, the sister of Demont, and that it must all be believed, unless Marriette Bron is called. I say, why did not you call Marriette Bron? I say, she is your witness; because you opened her evidence; because you vouched her—because you asserted that she was present—because you told us what she saw. And yet you call only her sister, whom you have in your own pay. I say she is your witness; because this is a criminal proceeding; because it is worse than a criminal proceeding; or of a nature higher at least in its exigency of pure, perfect proof. I say a bill of Pains and Penalties is a measure of such severity, that it ought to be supported by evidence, better, if possible, and stronger, than that which takes away life or limb. I say, she is your witness, and not ours; because we are the defendants, the accused and oppressed by the bill of Pains and Penalties, which does not only accuse, but oppress and seek to overwhelm. She is your witness and not ours; because we stand upon our defence, and we defy you to prove us guilty, and unless you prove our guilt, and until you prove that guilt, we ought not—if justice yet reigns here—we ought not to be called upon for a defence. My lords; in a common civil suit, I can comprehend such tactics. I am not bound in claiming a debt, to call, to prove my case, my adversary's servant, or his clerk, or his relation; but if I am placed upon my defence, even for the lowest crime known in the law, pure, unsuspected testimony must be given, whether it is to be derived from one quarter or from another—whether it is to be got from their side or ours. And I will put a case to remind your lordships of this:—Suppose a high-way robbery or murder to be alleged to have been committed, and a man is put upon his trial, and that a Bow Street officer, panting for his reward, or an accomplice, infamous by his own story, or a spy, degraded by his calling, or any other contaminated, impure, necessarily suspected witness of any description, is alone put forward to prove that charge; and suppose a friend of the defendant were standing by, his servant, or his partner in trade, or any person who is barely competent, by the rules of evidence, to appear as a witness—any person except his wife, who cannot be a witness—I say, no man ought to be put in jeopardy of his life, or be called

upon to produce in his defence, that friend, that relation, that servant, unless the case against him has been first proved by unsuspicious testimony; and if only the degraded spy, or the infamous accomplice, or the hired informer, the Bow Street runner, were called against him, their testimony is not such as to make it needful for the prisoner to call his friend. It is the prosecutor who must call his friend: it is no excuse, to say, he is a friend, a relation; a partnership is no excuse: the English law demands, what common sense approves, that every man shall be considered innocent until he is proved to be guilty; and that guilt must be proved at the peril of him who seeks to condemn losing the purpose of his prosecution.

My lords; the Queen is in a most singular situation. She must open her mind to painful constructions of the conduct of those who surround her. She may not view with a charitable eye the actions, and construe the feelings and the motives, of all she has intercourse with. She has been inured, by a long course of prosecution, by the experience of much oppression, by familiarity in her own person with manifold frauds, by all the arts of spies, by all the malice of the spiteful and revengeful, by all those hidden artifices which not even ever are always discovered, which sometimes only she has had the means of tracing and exposing to the day. This life which she has led, and of which this last scene of it which you are now sifting, is very far from forming an exception—all that she has seen heretofore, all that she has seen now since she went last to Italy, and all that she has witnessed here since her return—and she has heard the evidence read, down to the examination of the last witness on the last day—is all calculated to make suspicion general, almost universal, the inmate of an otherwise unsuspecting breast. It is the fate of those who are ill-used—it is one of the hardest portions in the lot of those who have been so buffetted by the Grimms, the Omptedas, the Redens, not to mention the Douglases, the Omptedas of our own land—it is the hard lot of those who have passed such trials, that they never can know whom they dare trust. And even at this hour, her majesty may ignorantly be harbouring a second viper in her bosom, of the same breed as that which has already attempted to destroy her. The Queen, my lords, has about her person a sister of Demont. She was placed there by that Demont. She was kept there by the arts of that Demont. She has corresponded with that Demont—they have corresponded in ciphers together, if you are to believe Demont, which I do not. But I take her as described by the Case for the accusers; and, under all the circumstances, to justify, nay to prescribe suspicion, as a duty to her own personal safety, my learned friends yet leave their case short against her, proved by such evidence as I have described to you, or rather, as it is painted by the witnesses themselves. They say, "why do not you call the waiting-woman, Marriette Bron, who is still left by her sister with you?" My lords, he who fulmined over Greece in words of fire, formerly said, and I would repeat it, and remind your lordships of it, and implore you not to take it in my own words, but to recollect the words that fell from him, in which he imprinted on his countrymen, that instead of all outworks, all fortifications or ramparts, which a man can throw up to protect the feeble, the best security which the feeble have against the fraudful and the powerful, is that mistrust which nature, for wise purposes, to defend the innocent against the strong and the cunning, has implanted in the bosom of all human kind. It is alien to the innocent nature; but it is one of the misfortunes to which innocence, by persecution, is subject to, to be obliged to harbour mistrust, while it is surrounded by agents so little scrupulous as the Grimms and Omptedas, with agents so still less scrupulous, as Majoochi, Sacchi, and Demont.

My lords; I am satisfied in my own mind—I have no doubt—that all who hear me will agree with me, that we are not bound to call that witness. I know not, if we had been ordered to deliver our opinion upon the subject to our illustrious client, that we should not have felt it our duty, as professional men, to awaken suspicions in the Queen's breast, which even yet she does not entertain towards her. I know that it would have been our duty to have done so. I feel that we should have been justified in so doing; and I am confident that we might have appealed to the principles which I have now reminded your lordships of, and have at once left the case as it stands, without calling that woman. But her majesty has yet seen no reason to part with a faithful servant. Whatever we may suspect—whatever the

story of Demont may have taught us to suppose possible—the Queen has hitherto never known any thing to the prejudice of her sister. She will, therefore, be presented before your lordships, and you will have an opportunity of hearing her account of those transactions which have been so falsely told by others. But I again repeat, that it is gratuitous on our part—that we do it voluntarily, from an over-excess of caution, lest it should be suspected by any one, for a moment, that there is any witness whom we dare not to call.—In like manner at Scharnitz—the story told there, which upon the cross-examination of Demont and upon the interrogatories put by your lordships, really melted away so, that very little of it remained, and which little was perfectly equivocal, and quite consistent with the most perfect propriety of demeanor on the part of the Queen. But still, having seen that among some the story made an impression, at first rather than at last, we shall explain it in a way not at all inconsistent with any thing but the peremptory swearing of Demont as to the time, when she says, that she could tell, within half an hour, how long she had been asleep, and when she could not tell, how many hours she was in a room the day before. Demont swore, that on the night Bergami returned with the passports to Scharnitz, he went to the princess's room, and there remained the rest of that night. My lords, I will prove this to be false; I will prove that the moment the passports were brought, the preparations for the journey commenced. I will prove that her majesty set off on her travels, within an hour and a half after the arrival of the passports, and that that time was scarcely sufficient to pack up and prepare for travelling. I will also prove, that during that time the Queen's door was hardly ever shut, and that there was a constant passing, not of Bergami, but of the other gentlemen of her suite—the Queen lying on the bed in her travelling dress, ready to rise at one in the morning, provided the passports arrived so early.—So with respect to the Carlsruhe case. We shall show your lordships that it is impossible that Kress can have sworn true. That she may have seen a woman in that room, if she swears true at all (which I do not believe) I have no occasion to question. But the night that Bergami went home, and the only night he went home, at the time in question, was when the Queen was left behind at a music party in the palace of her illustrious relation to whom she was making a visit. She remained there two hours and a half, and upwards—she remained there until between nine and ten o'clock, and she afterwards went to sup at the Margravine's; where she always supped on the evenings she did not dine there; and Bergami and his sister and child were then at home, when he was taken ill, and went to bed.

My lords; I would remind your lordships of an argument which is used in the present case, and which I was rather surprised to hear, that some persons had been so very inattentive to the details, as to allow to their otherwise acute and ingenious minds. They say, that if this is a plot—if the witnesses are speaking what is untrue—they have not sworn enough; that they ought to have proved it home, as it were; that they ought to have convinced all mankind, that there were acts unequivocally done which nothing but guilt could account for—which were utterly inconsistent with the explanation of innocence. My lords, can those who argue thus, have forgotten two things which every man knows, one general in all cases, and the other happening in every stage of this; namely, that the most effectual way, because the safest, of laying a plot, is not to swear too hard, is not to swear too much, or to come too directly to the point; but to lay the foundation of facts and circumstances, to knit the false with the true, to build the fanciful fabric upon that which exists in nature, and in order to escape detection, to take most especial care—as they have done here—never to have two witnesses to the same facts, and to take the facts as moderately, and as little offensive as possible. The architects of this structure have been well aware of this principle, and have followed the rule throughout. At Naples, why were not other people called? Why were there never two witnesses to the same fact? Because, it is dangerous—because, when you are making a plot, have one witness to a fact, and another to a confirmation; have some things true, which an impeachable evidence can swear; other things fabricated, without which it would be of no avail—but avoid calling witnesses to the same thing at the same time, because the cross-examination is extremely likely to make them contradict themselves. Now, for example, my learned friend opened a case that ought

to be proved by a crowd of witnesses. Is it so usual for a princess of Wales, who is seen in a box at Naples, to go on one occasion to the theatre and be hissed, whether she was masked or no? Do the concealments of a masquerade, like the fabrications of this plot, exist longer than from the night till the morning in this place? Would not the hissing of such a person as the princess, for such a cause as the indecency of her dress, have been known to all who attended the place? Would it not afterwards have been believed and told by all the gossips of Naples—

"Et otiosa credidit Neapolis,
Et omne vicinum oppidum."

And yet one witness alone, instead of all Naples, appears. In like manner have we no other evidence at Naples of general demeanor. Why have we none to speak to the state of the beds? Why none to the state of the linen? I ask, what is become of Ann Preising? I can answer that question. She is here. I obtained the fact from a witness in cross-examination. Why is she not called? I can answer that question too. She is not an Italian. What reason is there for not calling her? Your lordships can answer that as well as I can. There was every reason for calling her, if they durst have done it. The case is short without it. She could have proved those marks—she was the princess's maid at that time. Beds! she made them. Linen! she had the care of it. Who washed the linen? Where was the laundress, the washerwoman? And yet, she was an Italian, for aught I know, though she is not called, and though her being called must have proved the case, if Demont speaks a single word of truth. They were practised in calling washer-women. They knew the effect of it in England, in the former plot. They were called in the Douglas plot, but they did not prove much, and the plot failed. Made wise by experience, they call them not here; although they know, by that experience, that if they could have stood the examination, this plot could not have failed.

But again, my lords, am I to be told by those who have attended to this evidence, that there has been any very short coming in the swearing of some of the witnesses—that they have not sworn unequivocally—that they have not proved the facts? Why, what more proof of adultery would you have than you have had in this case, if you believe the witnesses, and they are uncontradicted? I do not say, if they are uncontradicted; for I say, your lordships ought not to compel me to contradict such witnesses: but if you believe the witnesses, you have a case of adultery as plainly substantiated in proof as ever gained verdict in Westminster-hall, or ever procured a Divorce Bill to pass through your lordships House. All that Demont tells, all that Majoochi tells, every tittle of what Sacchi tells at the end of his evidence, is proof positive of the crime of adultery. If you believe Sacchi, Bergami was seen twice going into her majesty's bed-room, and not coming out from thence. If you believe Sacchi, adultery is the least of her crime—she is as bad as Messalina—she is worse, or as bad, as the Jacobins of Paris covered even themselves with eternal infamy, by endeavouring to prove Marie Antoinette to have been.

My lords; I have another remark to make, before I leave this case. I have heard it said, by some acute sifters of evidence, "Oh! you have damaged the witnesses, but only by proving perjury, by proving falsehoods indeed, in unimportant particulars." I need only remind your lordships, that this is an observation which can only come from the lay part of the community. Any lawyer at once will see how ridiculous, if I may so speak, such an objection must always be. If I am to confirm the testimony of an accomplice—if I am to set up an informer—no doubt my confirmation ought to extend to matters connected with the crime—no doubt it must be an important particular that it will avail me to prove by way of confirmation. But it is quite the reverse in respect to pulling down a perjured witness, or a witness suspected of swearing falsely. It is quite enough if he perjure himself in any part, to take away all credit from the whole of his testimony. Can it be said, that you are to pick and choose—that you are to believe part, and reject the rest as false? You may—if you are convinced the part you believe is true, notwithstanding other parts which you do not believe; those parts not being falsely stated wilfully by him, but parts which you do not believe, because he may have been ignorant of or may have forgotten them. In this sense, you may choose—culling the part you believe, and separating the part you think contradicted. But if one part is not only not true—is not only not con-

sistent with the fact, but is falsely sworn to on his part—if you are satisfied that one part of his story is an invention, to use the plain word, a lie; good God! my lords, what safety is there for human kind against the malice of their enemies—what chance of escaping from the toils of the perjured and unprincipled conspirator, if you are to believe part of a tale, even if ten witnesses swear to it, all of whom you convict of lying in some other part of the story? I only pray your lordships to consider what it is that forms the safeguard of each and every one of you against the arts of the mercenary or spiteful conspirator. Suppose any one man—and let each of your lordships lay this to his mind before you dismiss this topic—suppose any one of your lordships were to meet with any misfortune, the greatest that can befal a human being, and the greater in proportion as he is of an honourable mind, whose soul is alien even to any idea or glance of suspicion of such a case being possible to himself—suppose that accident, which has happened to the best and purest of men, and which may happen to any of us to-morrow, and which if it happens must succeed against you to-morrow, if you adopt the principle I am struggling against—suppose any one of your lordships charged by a mercenary scoundrel with the perpetration of a crime at which we show in this country our infinite horror, by almost, and most justly, considering the base charge to stand in some sort in the place of proof—suppose this plot laid to defame the fairest reputation in England—I say that reputation must be saved, if escape it may, only by one means. No perjury can be expected to be exposed in the main, the principal, part of the fabric: that can be easily defended from any attack against it; all the arts of the defendant's counsel and all his experience, will be exhausted in vain: the plotter knows how (as these conspirators have done) to take care that only one person shall swear to a fact, to lay no others present, to choose the time and select the place when contradiction cannot be given, by knowing the time and the place where any one of your lordships may have been alone at any moment. Contradiction is not here to be expected; refutation is impossible. Prevarication of the witness upon the principal part of his case, beyond all calculation of chances there will not be. But you will be defended by counsel; and the court before whom you are tried will have you acquitted, if the villain, who has told a consistent, firm tale immoveably, though not contradicted, though not touched, upon the story itself, tells the least falsehood upon the most unimportant particulars to which your advocate shall examine him. My lords, I ask for the Queen no other justice: I desire she may have no other safety than that which would form the only safety to any of your lordships in such cases, before any court that deserved the name of a court of justice.

My lords; I am told that the situation of life in which Bergami, since promoted to be the Queen's chamberlain, originally moved, that that sphere of life, compared with the fortune which has since attended him in her service, is of itself matter of suspicion. I should be sorry, my lords, to have lived to see the day, when nothing more was required to ruin any exalted character in this free country, than the having shown favour to a meritorious servant, by promoting him above his rank in life. It is a lot which has happened—which has been that of many of those who have been the ornaments of their country. God forbid we should ever see the time, when all ranks here, all stations in the community, except the highest, were not open to all men; and that we should ever reckon it of itself a circumstance even of suspicion in any person—for neither sex can be exempt from an inference of such a nature if it is once made general and absolute—that he has been promoted! Let me, however, remind your lordships, that the rapidity of the promotion of Bergami has been greatly overstated; and, the manner in which it took place is a convincing proof, that the story of love having been the cause of it, is inconsistent with the fact. Now this I ask, from a distinct recollection of the dates in the evidence before you. Believe Majoochi and Demont, and three weeks after Bergami's arrival in the household, he was promoted to her bed. How was it with respect to the board? Because, after that, he continued in the situation of courier; he dined with the servants, and lived not even with the chamberlains; certainly not, for they were at her table, as usual. He continued to dine with the servants at Genoa; notwithstanding Majoochi's story, it is proved to your lordships that he did not dine with her. He continued as a courier, even after he had once sat at her majesty's table by accident. It appears

even in the evidence (believing it to be true), that the Queen sat at table where he was for the space of one day. He, however, still continued a courier; and it was only on the eve of the long voyage, that he was admitted to her table, commencing with the journey to Mont St. Gothard. He continued in his situation of courier, still in livery; until, by degrees, he was promoted, first to travel in a carriage of his own, instead of riding on horseback. Then he was promoted occasionally to sit at the same table with the Queen, and at last he was appointed a chamberlain generally. My lords, this is not consistent with the story told of Naples. Show me, my lords, the woman, particularly the amorous, the imprudent, the insane woman her majesty is described to be by these perjured witnesses, who would have allowed her paramour, after indulging in all the gratifications described at Naples, for weeks and months, to continue for months, and almost for years, in an apparently menial capacity. My lords, this is not the rapidity of pace with which love promotes his favourite votaries; it much more resembles the sluggish progress with which merit finds its way in the world, even in courts. My lords, he was a man of merit, as you will hear in evidence—if you put me on calling any. He was not of the low origin he has been described to be. He was a person whose father held the situation of a proprietor, of moderate income, in the north of Italy. He had got into difficulties, as has happened to many of the Italian gentry of late years; and his son, if I mistake not, had sold his estate, in order to pay his father's debts. He was reduced; but he was a reduced gentleman. When he was in the service of general Pino, he was recognized as such. The general repeatedly favoured him as such; he has dined at his table, general Pino being the commander-in-chief in the Milanese. He has dined at his table during the Spanish campaigns. He was respected in that situation—he was esteemed by those whom he served at that time. They encouraged him, as knowing his former pretensions and his present merits; and when he was hired, he was proposed by a gentleman, an Austrian nobleman, then living in Italy, in the Austrian service—he was proposed to the Queen's chamberlain, as a courier, there being a vacancy, and was hired without the knowledge of her majesty, and before she had even seen him. The Austrian nobleman, when he offered him as a courier, said, he fairly confessed he hoped, if he behaved well, he might be promoted, because he was a man whose family had seen better days, because he was a faithful servant, and with ideas belonging rather to his former than to his present situation. It was almost a condition of his going, that he should go for the present as a courier, with the expectation of soon filling some other vacant place.

I do not dwell on this, my lords, as of any importance to the case; for whether I shall think it necessary to prove it or not, I consider that I have already disposed of the Case in the comments which I have made upon the Evidence, and in the appeal which I have made to the general principles of criminal justice. But, as the conduct of her majesty has been so unsparingly scrutinised, and as it is important to show, that impropriety existed not, where I defy guilt to be proved, I thought it requisite to dwell on this prominent feature in the cause. If the Queen had frequented companies below her station—if she had lowered her dignity—if she had followed courses which, though not guilty, might be deemed improper and inconsistent—if she had been proved guilty of any unworthiness—I could have trod upon high ground indeed. But I have no occasion to occupy it. I say, guilt there is none—levity there is none—unworthiness there is none. But if there had been any of the latter, I might have appealed to your lordships, upon a ground which always supports virtue in jeopardy, the course of her former life, at home, among her own relations, before she was frowned upon here—while she had protection among you—while she had the most powerful of all protection, that of our late venerable monarch. I hold in my hand a testimonial, which cannot be read—which I am sure will not be weighed—without the deepest sense of its importance: above all, without a feeling of sorrow, when we reflect upon the reign that has passed. It is a melancholy proof—more melancholy, because we no longer have him who furnishes it amongst us, spared to us—but it is a proof, how that illustrious sovereign viewed her, whom he knew better than all others—whom he loved more than all the rest of her family—even than those upon whose affection she had a greater claim. The plainness, and hones-

ty, and intelligible, manly sense of this Letter is such, that I cannot refrain from the gratification of reading it. It was written in 1804—

" *Windsor Castle, Nov. 13th*, 1804.

" My dearest Daughter-in-Law and Niece ;—Yesterday I, and the rest of my family, had an interview with the prince of Wales at Kew. Care was taken on all sides to avoid all subjects of altercation or explanation, consequently the conversation was neither instructive nor entertaining ; but it leaves the prince of Wales in a situation to show whether his desire to return to his family is only verbal or real," —(a difference which George the 3rd never knew, except in others)—" which time alone can show. I am not idle in my endeavours to make inquiries, that may enable me to communicate some plan for the advantage of the dear child you and me with so much reason must interest ourselves ; and its effecting my having the happiness of living more with you is no small incentative to my forming some ideas on the subject ; but you may depend on their being not decided upon, without your thorough and cordial concurrence, for your authority as mother it is my object to support.

" Believe me, at all times,

" My dearest daughter-in-law and niece,

" Your most affectionate father-in-law and uncle,

" GEORGE *R.*"

This, my lords, was the opinion which this good man, not ignorant of human affairs, no ill judge of human character, had formed of this near and cherished relation, and upon which in the most delicate particulars, the care of his granddaughter and the heir of his crown, he honestly, really, and not in mere words, always acted.

I might now read to your lordships, a Letter from his illustrious successor, not written in the same tone of affection —not indicative of the same tone of regard—but by no means indicative of any want of confidence, or at least of any desire harshly to trammel his royal consort's conduct. I allude to a Letter which has been so often before your lordships in other shapes, that I may not think it necessary to repeat it here. It is a permission to live apart, and a desire never to come together again—the expression of an opinion, that their happiness was better consulted, and pursued asunder, and a very plain indication, that her majesty's conduct should at least not be watched with all the scrupulousness and all the rigour and scrutinising agency, which has brought the present bill of Pains and Penalties before your lordships. [Cries of " Read, read ! " The learned counsel accordngly read the Letter, as follows :]

" Madam ;

" As lord Cholmondeley informs me, that you wish I would define in writing, the terms upon which we are to live, I shall endeavour to explain myself upon that head with as much clearness and with as much propriety as the nature of the subject will admit. Our inclinations are not in our power, nor should either of us be held answerable to the other, because nature has not made us suitable to each other. Tranquil and comfortable society is, however, in our power ; let our intercourse, therefore, be restricted to that, and I will distinctly subscribe to the condition which you required, through lady Cholmondeley, that even in the event of any accident happening to my daughter, which I trust Providence in its mercy will avert, I shall not infringe the terms of the restriction, by proposing at any period, a connexion of a more particular nature. I shall now finally close this disagreeable correspondence, trusting, that, as we have completely explained ourselves to each other, the rest of our lives will be passed in uninterrupted tranquillity. I am, Madam, with great truth,

" Very sincerely your's,

" GEORGE *P.*"

" Windsor Castle,

" April 30th, 1796. "

My lords ; I do not call this, as it has been termed, a Letter of Licence—this was the term applied to it, on the former occasion, by those who are now, unhappily for the Queen, no more—but I think it such an epistle as would make it matter of natural wonderment to the person who received it, that her conduct should ever after—and more especially the more rigorously, the older the parties are growing—become the subject of the most unceasing, unscrupulous watching and investigation.

Such then, my lords, is this Case. And again let me call on your lordships, even at the risk of repetition, never to dismiss for a moment from

your minds, the two great points upon which I rest my attack upon the Evidence;—first, that they have not proved the facts by the good witnesses who were within their reach, whom they have no shadow of pretext for not calling;—and secondly, that the witnesses whom they have ventured to call are, every one of them, injured in their credit. How, I again ask, my lords, is a plot ever to be discovered, except by the means of these two principles? Nay, there are instances, in which plots have been discovered, through the medium of the second principle, when the first had happened to fail. When venerable witnesses have been seen to be brought forward, when persons above all suspicion have lent themselves for a season to impure plans, when nothing seemed possible, when no resource for the guiltless seemed open—they have almost providentially escaped from the snare by the second of those two principles; by the evidence breaking down where it was not expected to be sifted, by a weak point being found, where no pains, from not foreseeing the attack, had been made to support it. Your lordships recollect that great passage—I say great, for it is poetically just and eloquent—in the Sacred Writings, where the Elders had joined themselves, two of them, in a plot which had appeared to have succeeded, "for that," as the Scriptures say, "they had hardened their hearts, and had turned away their eyes, that they might not look at Heaven, and that they might do the purposes of unjust judgments." But they, though giving a clear, consistent, uncontradicted story, were disappointed, and their victim was rescued from their gripe, by the trifling circumstance of a contradiction about a mastich tree. Let not man call those contradictions or those falsehoods which false witnesses swear to from needless falsehood, such as Sacchi about his changing his name, or such as Demont about her letters, or such as Majocchi about the banker's clerk, or such as all the others belonging to the other witnesses not going to the main body of the case, but to the main body of the credit of the witnesses—let not man rashly and blindly, call those accidents.—They are dispensations of that Providence, which wills not that the guilty should triumph, and which favourably protects the innocent.

Such, my lords, is this Case now before you! Such is the Evidence in support of this measure—inadequate to prove a debt—impotent to deprive of a civil right—ridiculous to convict of the lowest offence—scandalous if brought forward to support a charge of the highest nature which the law knows—monstrous to ruin the honour of an English Queen! What shall I say, then, if this is their case—if this is the species of proof by which an act of judicial legislation, an *ex post facto* law, is sought to be passed against this defenceless woman? My lords, I pray your lordships to pause. You are standing upon the brink of a precipice. It will go forth your judgment, if it goes against the Queen. But it will be the only judgment you ever will pronounce which will fail in its object, and return upon those who give it. Save the country, my lords, from the horrors of this catastrophe—save yourselves from this situation—rescue that country, of which you are the ornaments, but in which you could flourish no longer, when severed from the people, than the blossom when cut off from the root and the stem of the tree. Save that country, that you may continue to adorn it—save the Crown, which is in jeopardy—the Aristocracy which is shaken—the Altar itself, which never more can stand secure amongst the shocks that shall rend its kindred throne. You have said, my lords, you have willed—the Church and the King have willed—that the Queen should be deprived of its solemn service. She has indeed, instead of that solemnity, the heartfelt prayers of the people. She wants no prayers of mine. But I do here pour forth my supplications at the Throne of Mercy, that that mercy may be poured down upon the people, in a larger measure than the merits of its rulers may deserve, and that your hearts may be turned to justice.

After a pause of a few minutes, Mr. Williams, of counsel for her majesty, presented himself to the attention of their lordships.

Lord Chancellor.—What do you propose to do—to call witnesses—or what other course do you propose to take?

Mr. *Denman.*—Perhaps, my lords, in the absence of my learned friend, your lordships will permit me to state, that Mr. Williams proposes to address your lordships, in support of the argument of our learned leader.

Lord Chancellor.—My lords, I under-

stand, that Mr. Williams means to address a second speech to the House. The general rule is, that one counsel shall open the case, and that another counsel shall observe upon it; and there is no doubt, my lords, in looking into the precedents, that it is entirely in your discretion, whether you will permit another counsel to be heard. In several cases you have done so; and perhaps your lordships will agree with me in thinking, that in this important business, your discretion will be well exercised, by permitting another counsel to be heard.—Mr. Williams, you will proceed.

Mr. *Williams* then proceeded—

My lords; I can assure your lordships, that no man can feel more sincerely oppressed by the weight—no man can be more aware, of the difficulties under which I labour, when I am about to address you. My lords, I advert not to the incidental circumstance, that it remained somewhat in doubt, whether the privilege or the right might be extended to me at all—a circumstance, nevertheless, not wholly immaterial in an attempt at any thing like adequate preparation. Nor do I here advert to the additional and severe demand upon the patience of the House—a demand the more severe, because it may be in some degree unexpected—but, my lords, I advert to my fate or fortune, by whatever it is to be termed, which brings me next in succession to the consideration of a subject, which I do not say has been discussed, but dismembered, torn in pieces, laid before your lordships quivering and trembling, by the marvellous operation of that machinery which my honourable and learned friend brings to bear upon this and upon every other question. But, my lords, far from repining at that circumstance, casting behind me every inferior consideration, and knowing that I shall be at once believed when I deprecate any, the slgihtest notion of competition—which would be absurd, I know not in whom—I do, my lords, sincerely and cordially rejoice, that a cause marked by this distinctive feature beyond any other, that is unmatched and unassorted from the commencement of the world until this hour, that it has pure and unmixed evil without any imaginable benefit—I say, that this cause, various, nevertheless, and mixed and diversified, has fallen upon abilities and dispositions equal to the task, upon an enlargement of intellect to comprehend, a power to express, a courage to meet, the varying and shifting attitudes of this case, in the course of his honourable and glorious exertion—an exertion which is now so fresh in the memory, the judgment, and the feelings of this House.—My lords, it shall be my humble office—if indeed that be within my power—to collect the scattered remnants, to pick up, if it may be, from the angles and corners of the Case, what may be, in some degree, left behind, in order to fill up that heaped measure of condemnation which, with all my spirit, I hope, and in my conscience I believe, not remotely or distantly, but even now, awaits, I will only say, this prosecution, though it be the third, of my royal mistress the Queen.

My lords; who are the parties in this Case? That, surely, is no immaterial consideration, before I proceed to say any thing else. I am aware that it has been with difficulty that we have attempted to elicit the explanation, which has been slow and uncertain, to whom we are directly opposed. Yet do we experimentally feel, and by certainty now are aware, that we are opposed by somebody or other; and the power that opposes us may, perhaps, not be less formidable for being imperfectly defined. But, my lords, not to speak of the name of his majesty the King; a name which in itself, as we are told, is "a tower of strength;" a name which nevertheless, flames in the front of this Bill, it is past speculation, it is no longer in doubt, but that on the one side your lordships have before you, in effect, the Government of this country, involving in that name the power, the authority, the wealth, the influence upon subordinate and only not tributary countries, whence a large portion of this Evidence comes; and, on the other side, her majesty, the Queen—but a queen, by a series of treatment, to which allusion has been made of which I will say no more at present, shorn of her beams—a queen who, with reference to this prosecution, has, by the vicissitudes of fate, by the circumstances of fortune, by the death of some, by the casualty of office in others, been deprived of her most powerful, of her most active, of her most zealous and able defenders. My lords, it is necessary that your lordships should have a distinct operation on your minds, with reference to this view of the Case. I apprehend that it will be necessary, that you should

distinctly caution yourselves against any thing like a permission of the ascendancy of power on the one hand, and to the hopelessness of desertion, the want of friends, and the absence of protectors on the other.

My lords; we are told, that among a wise people to whom reference is frequently made, and not without reason, this prevalent and paramount authority of the accuser used always to be cautiously watched, and turned to the benefit of the accused. The words, my lords, are remarkable. and I will give you them from the high authority itself—"Semper in hac civitate," says Cicero upon this subject, "nimis magnis accusatorum opibus et populus universus, et sapientes ac multum in posterum prospicientes judices restiterunt"—a passage which at the outset I take leave to notice is remarkable, upon this ground, that the opinion of the universal people of Rome, it seems, and the voice of provident judges were one and the same. He then goes on thus—"Nolo accusator in judicium potentiam afferat, non vim majorem aliquam, non auctoritatem excellentam, non minimam gratiam; valeant hæc omnia ad salutem innocentium, ad opem impotentium, ad auxilium calamitosorum; in periculo vero, et in pernicie civium; repudientur." So, my lords, I take leave, with great humility, to state to your lordships, that except by some distinct and peremptory exertion of your minds, except by some powerful caution, except by a resistance (so to speak) which you anxiously and studiously make, there is reason to apprehend in this case, from the unequal conflict between the parties, that there may not be impartial and equal justice between them.

My lords; there is another topic to which I shall take leave to allude. I shall not waste your lordships time, by stating, after the continual recommendation which I have heard of the observance of the forms of proceeding in the courts below, what is an invariable and binding and sacred rule in all and every of those tribunals, that upon the evidence in the cause, and upon the evidence only, is the judgment to be formed; that no previous opinions; that no preconceptions, from whatever quarter derived; that no rumour, however frequent (which may be, for any thing I know to the contrary, a part of the case of which it is our duty to complain), should be suffered to interfere with the case; but that the evidence in the cause, and nothing but the evidence, must be the rule and criterion for every noble lord who hears me, in deciding upon this most important question. My lords, without that, no longer can there be any chance for a party that is accused; without that, I know not by what secret operation, I know not by what means with which we are unacquainted, I know not by what secret surmises, I know not by what obscure motives, conclusions may be arrived at, which in no court of justice can be arrived at, except by an open, a public, a fair and equal examination of the evidence on both sides.

My lords; while I am upon this subject, permit me to call your lordships attention to another part of this case, which is not unconnected with it. How does her majesty the Queen stand at present? Under difficulties of defence, I will venture to affirm—and by the most minute examination of the analogy of other tribunals, I pledge myself to bear it out in observation—that she stands in difficulties—that she has to surmount a variety and perplexity of different considerations, which, in the case of no accused person that stands at any bar in any tribunal of England, ever has or ever can take place, while the law remains the same as it is at present. My lords, let us examine this question; and, though the topic be not new, I am sure I shall stand excused, (seeing that it does, in my judgment, pervade the whole case), if I call your lordships attention to the manner in which the evidence has been brought forward: for the manner in which you estimate the evidence leads you to form an opinion what to look for in the nature of defence. It goes, in fact, to the bottom of the whole proceeding. Permit me to examine, a little more in detail, whether I am or am not founded in the remark I now make.

My lords; is there any instance in the history of the law of England, in which a party accused has been kept in ignorance, until the time of the trial coming on, of the precise nature of the charges to be preferred—the time, the place, the circumstances, under which the accusation is framed? My lords, I say fearlessly, there is none. First of all, let us take the instance of the more formal, the more technical, part of the instrumentality—so to speak of a charge got up against any person accused within the realm of Eng-

land. True it is, I am aware, and the answer has been given before (which, though true in law, is immaterial in practice), that the indictment need not contain the particular day or place. My lords, I am aware of it; but I appeal to every man who hears me—I appeal fearlessly to your lordship, whose memory upon this subject is perfect—I appeal to every learned judge who hears me—if a murder be committed on the first of January—if a robbery be done—if a house be broken—for the mere love of fiction, for the pure indulgence in a vicious imagination and fancy, does the indictment charge it to be upon the first of June? However it may be in a strict examination of the question in reference to the point of law, in practice, I speak without dispute, the party under examination has the time, has the place, given him in the instrument by which he is accused. My lords, is that all? Has not the party accused been previously committed—must he not have been committed by some magistrate of the county—which commitment must express, and on the face of it contain, some specification, at least, of the time, the place, the manner of the offence for which the party is in custody. But, is that all? In ninety-nine cases in a hundred—in nine hundred and ninety-nine in a thousand, perhaps I might say, and say truly, there is a previous examination, there is a previous hearing, in the presence of the accused, and in the presence of the witnesses who are adduced against him. By means of this previous inquiry, there is a distinct notice of the time, of the place, and of some of the persons at least who are to be adduced against him. If it be a wicked fabrication and a gross conspiracy to charge him unlawfully, he has at least a clue of the time, of the place, and some of the witnesses, which may lead to the rest, who are to sustain the unjust accusation. Not without reason, then, my lords, does her majesty the Queen imagine, that to be put upon her trial with no notice of place, except that it was comprehended within the limits of the globe, or at least three quarters of it—with no specification of time, except that it was spread over six years—with no intimation of any witness, until she was confronted by them in the presence of your lordships—well, in my judgment, may her majesty the Queen think, that she comes under fearful disadvantage to meet this case, as opposed to any criminal— I ought rather to say, person accused, within the realm of England, of any crime whatsoever.

My lords; I beg leave to illustrate this a little further; and I put it to every noble lord; I put it more particularly to those who are conversant with judicial proceedings; if what I now state be incorrect. Suppose a charge of any nature —suppose a charge of felony, of murder, of burglary, of robbery, be it what it may, to be made against an individual; and suppose it to have been committed on any assignable day—the man is committed to prison, the trial comes on—it is a circumstantial case; evidence is adduced against him from this unsuspected quarter, from that, from the other—none of them containing the actual import of the crime, but tending towards that conclusion—I will imagine it to be a case of suspicion, which the prudence of the learned judge, which the conscience of the jury who are sworn, cannot shake off. How is that case dealt with; and what are the observations that I, daily and for years, have heard? Why, the learned judge is in the habit of stating to the jury in this wise— "If this suspicion that hangs round the prisoner so close, be unfounded—if it be really untrue—if that which appears from the circumstances of the case, to amount to guilt be in effect only suspicion that has unjustly attached upon innocence, why has he been silent upon exculpatory proof? The day is recent; his memory fresh called to it; an opportunity was given to him; in that opportunity he has failed." My lords, upon that species of reasoning, just, well-founded, natural, irresistible, are men daily and justly convicted of every crime. But I will for a moment suppose, and suppose it only in order to contrast the case by making some similarity to the present—what if the party accused was supposed to have committed the offence at the distance of six years? Would any learned judge think it a part of his duty consistent with his discretion—would it be tolerated by the rules of common sense, on which the law is said to be founded—that the same exigency of proof in that remote period should be required, when witnesses might have died, when memory must have failed, when difficulties by bare lapse of time are imposed—would that language be endured if it were uttered; which it never could be? My lords, on the contrary, this would be the language that

the judge would hold—"Why was not this charge brought earlier? What is the reason of this delay? Why has this accusation slumbered? Do you, gentlemen of the jury, expect a miracle for the accused? Do you expect that men's memories should be particular to times, to places, to events, which, by the course of human nature, must have perished from their recollection and from their memories." Such would be the language of the judge. The remoteness of the period, the lateness of the charge, which, if an answer could be expected to be given, would be the oppression of the accused, is, in that contrasted case, his salvation and deliverance; for large and liberal allowances are made; powerful remarks arise, and as they arise, they are made available—that if nearer to the time, that if, when the transaction was fresh, the party had been called upon to account for his conduct, he then might have answered, though he might not be enabled to do it now.

My lords; why do I trouble you with this detail, and what is the reason of this preliminary remark? Surely not that I may be supposed to indulge in unfruitful remonstrance, or in unavailing complaint. Petitions have been presented to your lordships, calling on you to grant something like a preparation, which every subject of this realm is entitled to by right of law. To the wisdom of your lordships it has seemed meet to refuse those several requests. How can I use it now? Why, my lords, I call upon your lordships respectfully, but in pursuance of my duty, firmly and boldly, if you pursue the course of the administration of justice, so much praised and flattered, and not more than it deserves, I believe, in this country in criminal trials, to extend to the Queen this double advantage from the delay that has taken place, which consists in what I will now state. You will expect the evidence to be clear, to be cogent, to be precise, in proportion as that evidence and the charge have been delayed; you will consider, that by that very delay, a difficulty is imposed upon the Queen, which, whilst human nature remains as at present constituted, it is impossible should not exist, namely, that the memory of the witnesses, that the recollection of particular events, that times, that places, that circumstances, which, if nearer to the inquiry, might have admitted of a ready answer, admit of none now. How, then, is her majesty to be defended before your lordships: and how do I place the case? Why, that your lordships should be vigilant in proportion as the prosecution has slept—that in the very same proportion as her majesty is surrounded with difficulties, with a multiplicity of various, I had almost said, oppressions, in the consideration of the case, in the very same proportion ought your lordships to be rigorous and vigilant in the examination of the adverse case—indulgent, forbearing, thinking it much—I do not say if an answer be given point by point, which I boldly assert implies a miracle to be wrought in her favour—but if any of the substantial circumstances, if any of the important facts, if any of those details wherewithal we are surrounded, and with which we are beset, should by good fortune, or by that to which I ought rather to allude, by the special protection of Providence, at this distance of time, amidst these difficulties, with all these surrounding dangers to her case, admit of any answer whatsoever. And I say, my lords, that, except that caution be by your lordships adopted, in examining the adverse case, in extending indulgence to the Queen, that in the preliminary part of this inquiry, during the hearing, and in the judgment at the close, she will have been heard, her case considered, and, if (which God, for the sake of the country avert!) the conclusion should be against her, she will have been condemned upon terms which not the meanest subject of the realm has ever suffered upon, in his life or fortune, for any the slightest offence in the history of the justice of this country.

My lords: these are preliminary remarks; but, if I mistake not, they are extremely well fitted to induce your lordships to that species of examination which befits this case, and to that view of it which, without attempting to go over the ground again, I must in some particulars, and somewhat in detail, again bring before you, notwithstanding that which, to my admiration and delight, is continually before my eyes—I mean the glorious example of excellence given by my honourable and learned friend. I say, notwithstanding that, that these preliminary remarks, if I do not greatly deceive myself, are extremely well suited to that temper of mind, with which I do not ask it as a favour, but claim it as a right of your lordships, to examine the adverse case, and prepare yourselves for the case of the accused.

My lords; in speaking of the whole case, and before I come to some details with which I am to trouble your lordships, it is impossible not to see, and seeing, it is much better for me at once to admit, that the supposition of my learned friend who has gone before me, and who has so much anticipated the case, is, that the whole case on the adverse side is founded and bottomed in perjury. That, of course, is not to be denied. My lords, however fearful, that, I am very well aware, is the conclusion which necessarily arises when any thing like distinct proof of perjury is given. Is it entirely new in the history of the judicial proceedings of this country—of this country—I repeat it—and of witnesses belonging to it, in trivial cases, upon slight grounds, upon minute interests, to find a series of witnesses called, every one of whom, when the conclusion of the case shall have arrived, are as surely, as clearly, as distinctly, upon the proof in the case, perjured, as that I am now addressing this House? My lords, is this case wholly without invitation—wholly without motives to induce persons to rise up, who may be infected with that crime? Is it altogether new? Have we never heard, to take an instance from my learned friend, which I most gladly do—have we never heard in the history of this or of any other country, in similar cases, of persons having, I do not say been got up, but presented themselves for purposes of wilful perjury? Is it quite a novelty in the history of human nature, that designing, that ill-meaning, that low-bred persons, should have a disposition to insult and triumph over those whom they imagine to have fallen from power, or to be in obloquy with those that are in power? Do your lordships imagine that it was only in ancient Italy, or in the capital of ancient Italy, that a disposition existed to triumph over the prostrate fortunes of illustrious individuals — that the rabble were anxious to beat down the friend of Cæsar, when Cæsar's friend had fallen?

"Curramus præcipites, et
Dum jacet in ripa, calcemus Cæsaris hostem."

Have your lordships forgotten—I am persuaded you have not—that that "foe" of Cæsar's had, at no distant time, nay very recently, been living in the midst of imperial favours? Do not your lordships recollect what the Satyrist says upon the subject of his crime? "Quo cecidit sub crimine?" who was the prosecutor he asks; for there was a difficulty in that case to know who the prosecutor might be—who was the informer, "Quisnam delator? Quibus indiciis? Quo teste probavit?" Why, none of them—"Nil horum. verbosa et grandis epistola venit á Capreis"—a large swollen green bag came over, which had been got up at Milan. So that it is not altogether new, it is not altogether quite unforeseen, in the history of human affairs, that persons, without any apparent motive, from a love of power, from a desire to worship the rising sun, as my learned friend alluded—it is not quite new, nor altogether confined to Persian devotion and idolatry, that the rising sun should be looked to, and that base and mean and ignoble natures should attempt to trample upon those whom they deem desolate and oppressed.

But is this all? Is there no additional motive? Is there nothing upon the evidence now, to induce your lordships to perceive that, whatever was the disposition of those who represented this country upon that remarkable and most especial Commission, at least the inhabitants of Italy might imagine that it would not be altogether an unrewarded service, if they came forward against that princess, whom they saw to be the subject of persecution, and of hatred? My lords, I have mentioned to you, that it is no longer a secret, and cannot be concealed, that the government of this country are concerned in the prosecution of the Queen. But as instances are more material than unmeaning generalities, I will refer your lordships to page 203* of the printed Evidence—I will refer your lordships to the instance of Barbara Kress at once, in which I think, without troubling you with the detail, your lordships will find, upon referring to it, that a brace of ambassadors if I am not mistaken, and a brace of ministers, were daily and busily engaged upon the very reputable and worthy purpose of picking up and packing off that valuable commodity which has been landed upon the honoured and duly grateful shores of this country, in pursuance of their laudable exertion. My lords, you will find, and your lordships I think were told so by my learned friend—there is Grimm, Reding, Berckstett, and Grilling, all of them representing, or I ought to say misrepresenting, this country, in the laborious, in the honourable, in the well-concerted, in

* See Vol. 2, p. 1078.

the reputable and glorious employment of getting together witnesses upon this occasion; and four of them were accordingly at work upon this single chambermaid, and as I say instances of that sort are infinitely better than general assertions unfounded in proof, I beg leave to lay it before your lordships; and having laid it before you, I beg your lordships to bear in mind, whether it is without cause I assert, that not only in human nature is it, that all the low-minded, ill-educated, servile, time-serving persons will desire to ascend, by attempting to oppress those whom they think are below them; but that there is in this case, if ever there was in any other, stronger, substantial, prevalent grounds for believing—whether it was so meant in this country or not, with that I have nothing to do—that in operation, that in effect, there was undue influence; that there was undue power; that there was an exertion of persons wielding the authority of the different countries in the different places, whence witnesses have been collected together, to compel—to enforce. If these means would not suffice, I leave your lordships to infer, whether others would be left unemployed to bring them hither, for that purpose to which I have more than once alluded.

My lords; while I am upon this subject, permit me to make another remark. Pray may I ask—excuse me when I do—has this inquiry on our part been conducted with a forgetfulness of this subject? Has the subject of the remuneration of the witnesses—to I fear your lordships disgust upon some occasions, from the repetitions of the questions—has that particular subject been omitted, and that class of examination forgotten on our parts? Has there been an instance—from the exorbitant payment of the mate and the captain of the polacre, which payments had no sooner come out upon proof, than not one other witness would allow that he had received any payment at all, which is, if possible, more condemnatory of the evidence of that witness, than the overpayment of the others—but has there been one single witness, from first to last, that has escaped without questions being put to him, (which, at the time, your lordships might think tedious, because so frequently repeated), as to the remuneration he received in the shape of money, for coming to this place? Have we not courted that inquiry? Have we not invited that discussion? Have we not, in every instance, been loud and clamorous for explanation on that point? Has it been given? Has it not been cautiously and industriously withheld? I will remind your lordships of an instance. Have your lordships forgotten, that at the close of my learned friend's Case—(he must excuse me if I call it his case now, and when I come to examine some of the detail of the addresses of my learned friends; of whom I shall speak only as I am bound in duty with reference to my client, without harshness to them, as they well know)—have your lordships forgotten, I say, at the close of my learned friend's Case (for from his treatment of it, I am bound so to consider it, as if it had been an action for goods sold and delivered, in which he was for the plaintiff and I for the defendant), that he made a singular application to this House, upon the subject of delaying the farther proceedings in this cause*—that there were important witnesses to a fact, which it appears he greatly stood in need of—to a decisive alleged fact of adultery, supposed to have taken place at Lugano. The application was made, and a night intervened. By analogy to all proceedings in the courts below, that application could only be sustained, as your lordships well know, by calling some person or other—the attorney for the prosecution; as the attorney in the cause would be the natural person to call to prove that, in his judgment, the evidence of those persons was important and material in the cause. Was that evidence presented to your lordships? Was that witness called? No: but the application died away, rather than that we should have an opportunity, as opportunity then we should have had, of finding whether this was hazardous conjecture—whether it was venturous, surmise—whether it was on our part that which it ought not to be, uncalled for, unmixed, unfounded calumny against the accuser, whether large sums had been disbursed in Italy, to bring together the motley crew whom your lordships have seen at your bar—whether it was really the fact, that if in Italy there be men whose consciences are vendible, the funds for that purpose had been furnished to the different commissaries, to the agents of law or equity, or of the state militant; who were all working jointly together in

* See Vol. 2, p. 1320.

the good cause? Then we should have had an opportunity of seeing and knowing, if they had called Mr. Powell, or any other person concerned in the conduct of this case, whether it was injurious surmise, whether it was unfounded suspicion, that not only in that realm of Italy, as in every other country, there are consciences that may be purchased, and men that may be bought, but that the means for that purpose, that the money which might be so employed, had been unsparingly and largely remitted. Not therefore, my lords, does my remark rest upon general surmise — not upon probabilities drawn from human nature, and human infirmity—not from that description of the Roman Satyrist—

"Græculus esuriens, in cœlum jusseris, ibit;"

which, if you are to apply it to any nation of modern times, I presume you would apply it to Italy—not upon these general surmises—not upon doubtful remarks, deduced from the history of human nature—but from our examination of the witnesses, till they were informed of what had been extracted from the captain and the mate of the polacre; and there it ceased. Not, I say, upon general surmises, but upon these facts, do I challenge my learned friends with the assertion, that the means, that the opportunity, that the funds of corruption, were furnished; or why, upon that pressing occasion, was not the witness to whom I have alluded, or some other witness connected with this cause, brought to sustain that application?

My lords; before I go into the detail, your lordships will indulge me, perhaps, with one other general remark. My lords, I shall not travel over that ground which my learned friend trod upon yesterday and to-day, I mean the glaring, the flagrant improbability which attends most of the circumstances which are imputed to her majesty the Queen; that the familiarity, however disgusting, as it has been termed, and justly termed—that however that familiarity might have been practised, and practised in secret, which might have been nothing to the purpose—but that there might be no doubt of the existence of the fact, your lordships heard fully, and therefore I shall not go into that subject again, in how many instances her majesty was careful and cautious, not only that it should not be practised in obscurity, but that witnesses should be present, if it should be thought hereafter material to narrate and to depose, to the fact. My lords, that is improbable, that is unlikely, when to that fact, which I believe my learned friend the attorney-general for the Queen did not allude to, I add, from the evidence of Demont, at page 364 of the Minutes,* the additional fact, that her majesty the Queen was, during all this extraordinary, most open, most profligate, most convenient conduct for any party that should attempt to call her conduct in question—when I add to that, as by the evidence to which I have referred appears (the undesignedness of which renders it the more fit for your reception), that her majesty, during all that time, thought and believed, no matter whether truly or not for my present purpose, that she was environed and surrounded by spies. What! would that same princess, who surely had not forgotten the proceedings of 1806, who surely was not ignorant of all that was passing in this country, who did not suppose herself to be in favour—I believe that will be conceded to me—What! would her majesty the Queen, in the presence of all the crew, and as if the whole presence of two-and-twenty persons had been selected, because the more witnesses there were, the better for her purpose—will your lordships readily and easily believe, that a person so circumstanced, with a recollection of what had passed, mindful of what was then about her and upon her, so to speak—the presence of informers and spies—would, I will not say have rendered persons open to this imputation, but have surrendered herself, willingly at discretion, to the malice of her enemies. My lords, that will not, I trust, be hastily and readily believed.

But let me, my lords, take one other instance from the evidence, as that I think is much more valuable than any general remark. My lords, your lordships will please to bear in mind, as I am sure you cannot have forgotten, that memorable transaction at Naples, in which there is the seed at least of that more mature charge which is undoubtedly arising also at Naples. I allude to the sleeping of Majoochi in the cabinet, between the room of Bergami and the room of her majesty, the then princess of Wales; and the history of that your lordships will find at page 6 of the Evidence,† and from

* See Vol. 2, p. 1213

† See Vol. 2, p. 807.

that page it will be collected by your lordships, from the account of Majoochi himself, first of all, that he was stationed there to attend upon Bergami, in consequence of the illness of Bergami at that time. Your lordships will further find, that there was a fire and a light in that room. You will further find, that there was no regular bed provided for that witness, Majoochi, but that the repose he took, if he was to take any (which would be contrary to his duty, as he was watching a sick man) was upon the sofa. I will not trouble your lordships with another remark which is distinct upon his testimony upon the adjoining page, though I will come to that presently.

Now, when we are on the subject of probability, what will your lordships say to this case? I am very well aware, and that is a feature never to be forgotten in estimating the character of Majoochi's evidence, that he had previously stated, that the access to the room of Bergami from the room of the princess, was by this particular route—upon his former evidence, upon the earlier part of it, your lordships would be induced to believe, that that was the only communication. Nay, indeed, and I may as well notice it now, at the bottom of page 5, he fearlessly asserted that—in an answer to a question put by my learned friend, the solicitor-general—"Did the other people of the suite sleep in that part of the house, or at a distance?" he fearlessly answered, "They were separated."* How far that agrees with another part of his evidence your lordships will see presently, but I am now only upon this remark. Why, my lords, upon the evidence it turns out, that so far from this room in which Majoochi was, being the only communication by which the Queen, if she had had the object in view which is imputed by this bill, had really intended to arrive, at the chamber of Bergami, for the imputed purpose, there was another passage, by another direction of the house, by which she might safely have gone, where she was not of necessity to have encountered any watchmen, where there was no person in attendance upon the sick, where it does not appear, that any other living person was likely to have seen her, though Majoochi in the first instance, would have had your lordships believe, that by the cabinet was the only communication.

While I am on the subject of the other passage, your lordships may as well have in detail, what I am now alluding to. In page 38 and 39 of the evidence, your lordships will find this in Majoochi's examination—"There was another passage to go into the room of Bergami without passing through the cabinet where you slept?" "Yes."* So that, my lords, unless the Queen wished to invite the curiosity of the man who was stationed to attend upon a person requiring his attendance from sickness; unless she wished to give distinct notice to the person who, from his occupation and employment, was likely to have observed what she was doing; unless she meant that—I challenge any man alive—I defy the plausibility, the probability, the ingenuity, be it what it may, that is to come hereafter, to find any ostensible cause, any reason consistent with common sense, any thing consistent with human nature, to induce the Queen to adopt a passage which led to exposure, which was calculated to lead to exposure, which could lead to nothing else, and to avoid a passage where, consistently with the Evidence of the case, and any thing that appears to the contrary, the guilty purpose might have been indulged in, and might have been indulged in unobserved.

My lords; we have heard of *confitentem reum*. But if in this Case it is sought to establish against her majesty the Queen, not only that these things have been done, but that they have been done in the surest possible way, that they might come before your lordships with adequate satisfactory proofs—if that, indeed, be the imputation, and that the way in which it is shaped, then has Majoochi done well, and well may his evidence stand. But if your lordships, in this the greatest case of the highest subject, will do that which the other judges of the land do—(for the jurymen are judges)—will bring to the consideration of this Evidence, the practice of human affairs and the information of common sense—and why are you possessed of it, except rigorously to use it on behalf of the accused?—here then I say, in that latter alternative, will your lordships be slow to believe; if there had been no other ground (and there is abundance) to contradict him. Some, you see, I have already adverted to, in the contradiction of his allegation about the rest of the family being separat-

* See Vol. 2, p. 807.

* See Vol. 2, p. 943

ed, and what he states afterwards with respect to that not being so. But, I say, my lords, apart from that remark,—and I am now upon the probability only, and endeavouring to make these observations auxiliary to the general remarks of my learned friend—I say, that, from the information of common sense and the experience of the affairs of mankind, there is, in the story of Majoochi, with respect to the cabinet and the passage, as much self-condemnation, from the improbability of it, as ever could arise to convict any story, upon its own showing, by the absence of probability, and from the nature of human affairs.

My lords; I have mentioned another circumstance on the subject of Majoochi; and having been partly led into it, though it is not quite in order, perhaps it would be as convenient, that I should at once bring your lordships attention to it. And although I am aware it is tiresome to your lordships, yet I trust you will excuse me—the importance of this case will be my apology—my office is but tedious—your attention must be exhausted. Every thing magnificent in exhibition, every thing attractive in eloquence, and all that is important, I allow you have heard. But this tedious detail your lordships will permit me to call your lordships attention to, when you consider how material it is to the discharge of your high duties on this occasion, to make yourselves thorough masters of the exact nature and bearing of the evidence which has been adduced upon it. Now I have said, that upon this very part of Majoochi's evidence, to which I have called your lordships attention, about the rest of the family sleeping separate from that part of the house in which her majesty slept—no insignificant or immaterial point! for what was all the labour of our opponents proof, from first to last, from Naples to Aum, from Aum to Messina, and then to the Villa D'Este, and I know not in what quarters of the globe—what has been the labour of the Opening Speech, what the labour of the examination, what the labour of the re-examination, what the labour of the Summing Up? to prove to your lordships, that there was an opportunity studiously and industriously afforded, for the commission of this imputed crime. Not without reason, therefore, was Majoochi asked the question, as to the detachment of the rest of the family, and not without good cause does he answer, that they were separate.

Now, let us see my lords, how far that is or is not borne out, when he comes afterwards to be cross-examined, It is at page 76* of the printed Evidence. The original examination is at the bottom of page 5.* I am now coming to the cross-examination, to which I beg to call your lordships attention. He is asked—"You have said, that in the house at Naples, the rest of the suite of her royal highness, except Bergami, slept in another part of the house from her royal highness?"—"I do not remember" (the celebrated "*non mi recordo*"). "I do not remember," good man! "whether the other family slept separate or distant." Indeed! "Do you now, mean to say, that the rest of the family of the suite, excepting Bergami, did not sleep at a distant and separate part of the house?"—"I remember the position of the bed-rooms of her royal highness and Bergami, but those of the family I do not recollect." Yet had he, in his original examination, in answer to that question, in page 5, with unblushing effrontery, stated to your lordships, to serve the purpose of the cause, that they were separated! Now again! "Then you do not recollect now, and you will not swear now, that the rest of the suite of her royal highness did sleep apart, at a separate part of the house?"—"I remember well where her royal highness and Bergami slept, but as to the rest of the family," *non mi recordo*, "I do not recollect where they slept." Now, my lords, I will not waste your time by commenting upon such a palpable contradiction. I should feel I should be abusing your lordships patience indeed, if I gave you, from the details, the unavoidable and necessary inference, and then consumed your time in unnecessary repetition, by showing that that man when he gave these answers, was wilfully and malignantly perverting the truth.

But, my lords, I will go on. And before I proceed further, I will beg leave to call your lordships attention to some part of the Evidence, and to the mode of examination of some of the witnesses which has been pursued, and which, if it was accidental on the part of my learned friends, I am sure I am the first person, so far as consistently with my duty I can do so, to acquit of any intention. But I

* See Vol. 2, pp. 871, and 807.

think the coincidence will be deemed so singular, and some of the circumstances to which I am about to allude so material and striking, that if the examination kept them back purely by accident, it was a most unfavourable turn of the dice, that all the accidents should operate against my illustrious client.

Now, my lords, I will first take the instance of the expedition at Scharnitz, at page 301 of the printed Evidence, where the subject of the Queen's going to bed, was the matter of inquiry before the witness; and of course, as it was imputed to her at Scharnitz—

"Quæ regio in terris nostri non plena laboris?"

—in the name of God, what spot of ground is it which has not been covered with some portion of this Evidence or other?—I say, at Scharnitz, as in other places, the imputation is that of an adulterous intercourse. I do not think I need trouble myself with the appurtenances of other cases; because the charge of an adulterous intercourse is what we are about; and if our opponents cannot recover on that, they cannot on the money counts, as I may call them, which they have thrown in. I say, my lords, it was imputed, that at the visit at Scharnitz, in order that the probability of the story might be made complete, the Queen had gone to bed. Now, your lordships will be pleased to refer to the Evidence of Demont, at page 301 of the printed Minutes—"Who went to bed in that room besides her royal highness; did any body?"—"Myself." "At what time did you go to bed?"—"Nearly ten o'clock." "At what time did her royal highness go to bed?"—"At the same hour." "In the same room?"—"In the same room." * And so the examination rests. Nothing more is said. The Evidence places her majesty in bed, speaking in the ordinary phrase, and without any further interpretation. Pray had this witness ever been previously examined on the other side at all? Had this witness ever given her evidence at Milan or elsewhere? Was the evidence she gave alone excluded from the printed copies which I saw unfurled, from day to day, by the counsel in favour of the Bill, to alarm and scare, if they might have that effect upon our nerves? Did my learned friend, the Attorney General, know what the witness had said, and what she was to prove? If he did, the examination, by pure accident, stopped short at a point, very injuriously to the Queen. The fact is, that her majesty no more went to bed, in the ordinary understanding of the phrase, than I am in bed at this moment. For, upon the rest of the evidence in the case, nay, upon Demont's cross-examination, she would not say, that any portion of the Queen's dress had been taken off upon that occasion.—At page 324 of the Minutes of Evidence, in answer to a question put to her by somebody or other, "Had the princess undressed?" she replies "I do not recollect," she is troubled with the "*non mi ricordo*" for once—"She was in bed, but I do not recollect whether she was undressed." "Do you remember the dress that the princess was in the habit of wearing at that time?"—"Yes." "Was it not a blue habit, trimmed with fur round close up to the neck, with a great deal of fur about it?" and your lordships will be pleased to bear in mind, that the evidence in the case proves, that there was a stock of frost and snow, which would render fur and every thing else very necessary upon that occasion—"Yes, there was a great deal of fur here (about the bosom); it was a blue dress." * And upon that occasion, following the examination up, it does not appear (the contrary will appear by-and-by, upon the evidence of this person herself) that although the Queen might have been reposing on the bed, her majesty was undressed. My lords, I do, on behalf of my royal mistress, most anxiously intreat, that what I am giving in the shape of example, your lordships will be pleased to pursue minutely and in detail. I will take another instance at page 290—the visit to Aum. After stating, that there was a bed or a bedstead under the tent, the witness, Demont, is asked, "Was there any bed or bedstead placed under the tent?"—Her answer is, "There were two small beds in this tent." "Did you go to the tent for the purpose of assisting in undressing her royal highness?"—"Yes." "Was she undressed as usual?"—"Yes." "Did you leave her undressed in bed, or up?"—"I left her undressed, and she was lying on her bed." "Where was Bergami?" "Under the same tent." † —And

* See Vol. 2, p. 1151.

* See Vol. 2, p. 1167.
† See Vol. 2, p. 1142.

so on. Now, permit me to pursue that subject, and see, whether Demont really meant to say, that the Queen, upon that occasion, was undressed. It was asked by somebody, at page 321, "Do you or do you not mean to say, that you undressed the princess at Aum?" —"I recollect I was under the tent of the princess, but I do not recollect whether I undressed her or not."* Had my learned friends ever examined this the principal witness of the piece —the scheming chamber-maid indeed— the first of the *dramatis personæ*, who took up a day and a half in her examination in chief, who was examined at Milan, who was examined in England, who was sworn to it in England, before she appeared at this bar—a thing unheard of in the practice of the civil or criminal law of this country, or if heard of, heard of with the strongest reprobation and remark—was she examined by them before or not? It appears, that she was. Was it, then, quite a fair representation of the case, was it quite just to the Queen, to leave it as a matter of uncertainty, and to leave on your lordships minds the inference, that the Queen was undressed upon the occasion in question?

My lords; I am sorry to pursue, and I will not do it—but the rest of Demont's examination to the latter point to which I have alluded, whoever of your lordships does the Queen the favour of pursuing, will find justifies me in the remark that I am now making, when I say, that it does not appear upon the evidence of Demont, that at Aum her majesty had taken off more than the riding-dress in which she had been travelling, and put on that which she wore for the night. Now, was that quite fair to the Queen, I ask again? and your lordships will excuse the repetition. Except by minute circumstances, these things are not to be brought to light. If time had had its usual operation, and the forgetfulness of the parties, the loss of witnesses, and the other ordinary occurrences of human nature had happened—but for these circumstances would her majesty now be undefended before you. Therefore, my lords, I invite your lordships attention to them; I implore your lordships attention to them. Excuse the phrase; but I speak on behalf of my mistress, the Queen—I demand it of you.—My lords; I go further—put it either way—in her examination in chief did Demont state this circumstance, or did she not? If she did not, she was wilfully withdrawing an important fact in the case; and, to avoid an odious monosyllable, she committed a *double entendre* upon her oath. If my learned friends knew it, and ceased to pursue it, then I say nothing of intention, with that I have nothing to do—but the examination stopped short at a critical period, to the disadvantage of her majesty the Queen—I say no more.

My lords; again, when I am upon this subject at Naples, page 253, and the subject being pretty nearly the same in all, it will not be very marvellous that I choose to select the same course of examination upon the same subject, and leave it to your lordships subsequent inquiry and better information to pursue the rest in detail. In page 253 of the Minutes, we have the same subject renewed, and renewed of course with the same purpose—not intirely with the same purpose—that is, not for the purpose of going to bed, but nevertheless for the purpose of furnishing an inference of the same cast, and of course with a view to the preamble of this Bill. And here I am on a celebrated part of this case, which concerns the representation of the crowning of Joachim, the then king of Naples, and the Genius of History, to which I am now alluding—"Did she change her dress entirely for that purpose?" "Yes."—"Did you assist her in changing her dress?" "I did not."* Did she know any thing about it therefore? No; she did not; for she was not in the room, according to her own account, and this allegation of her changing her dress entirely—a phrase which cannot escape your lordships—which is meant to convey a total and an entire change of dress, importing therefore what I need not specify more in detail.—Upon this, I say, no explanation further is given upon the examination; but it is taken upon the question (and a most leading question it is, as your lordships will be pleased to observe, or such of your lordships as have dealt in these subjects in any degree)—"Did she change her dress entirely for that purpose?" "Yes"—an answer given, a plump and a round answer, not to a leading but to a drawing question; I say, my lords, there it stands, as if the Queen had taken off all her dress, upon that occasion—there being not one tittle of proof,

* See Vol. 2, p. 1165.

* See Vol. 2, p. 1116.

that the dress (to which I shall advert presently, with another aspect and for a different though equally important purpose) might not have been put on over every portion of the dress which she had on, when she went into that room. I shall have to call your lordships attention, in the Summing-up of my learned friend the solicitor-general, to this, that this was not a casual circumstance in the examination in chief, but that it is wrought up, in the Summing-up, by more than the dexterity of an advocate, with some of the imagination of the poet, by the addition of facts not even found upon that leading—and I do not say falsely, the term is unpleasant, but injuriously and unfoundedly assumed—question and upon that fallacious and false answer.

But before I come to that, I will make another remark; and perhaps it may be the last upon this part of the case; which is, as your lordships will perceive, that when examined at Milan, or elsewhere—under the multitudinous examinations of divers persons, civil, military, and equitable, to whom he or she was subject—either one or other of two things happened—that the witness did not give the account before; in which case there is a peremptory suspicion as to her story altogether—or it is not quite candid, it is not quite fair, it has somewhat the aspect of a partizan in this case, to leave it with these strong, these injurious, these unexplained impressions, bearing and operating so directly and unequivocally against her majesty the Queen.

My lords; I will take only one or two instances, and with them conclude. Pray bear in mind Majoochi. Your lordships have not forgotten him—he took up too much time—there has been too much commentary upon him—the English nation will never forget him, while the name of England and its language shall endure. My lords, I say that upon that subject, which of your lordships that came to the subject for the first time and without any information—which of your lordships, upon the examination in chief, ever learned, that the shores of England had been honoured and gratified by the presence of Majoochi before? Which of you had ever been informed, by the examinations of my learned friends, that Majoochi had been at Gloucester, had been in London, had been in stage-coaches, had been here and there and elsewhere in the realm of England, until by mere accident, at the close of the first day, when my learned friends had done with their description of him, when he would have passed for one of that new and entirely fresh importation which decorates and honours the adjoining apartment, which has been fitted up for their service—I say, my lords, that until casual information reached our ears by mere chance, and after the close of the cross-examination, then, and not till then, did it appear that Majoochi had been in England before. Now, if information had been given, that he had been here and elsewhere in England, we might have learned something of him; we might have got information respecting him; we might have learned something which might have served the Queen and damaged the witness, and thereby served, if not saved, the realm of England. But, no! no information upon that!—no information that he understood English! but here he stands at the bar, examined by an interpreter, supposed to be as dull as a post, with reference to our questions, every one of which, or most of which, he heard, digested, and thoroughly understood, before the question was put by the interpreter; during which time he had good means, particularly during his cross-examination, to serve himself, by that most comfortable and convenient delay. But all that information which on the other side I suppose they had, which doubtless was inquired after by them, passes away in their examination and in the cross-examination, and comes in the shape of information to us, as all information must come, by surprise, and by surprise only; seeing we have it not directly given in any manner. And so the examination in chief was conducted throughout this case. It is somewhat singular, that here too, the inadvertence, if it was inadvertence, was all against the Queen.

My lords; I will take another instance when I am upon this subject, and it shall be the last with which I will trouble you. The captain of the polacre, who, when he gets back to Italy, if he should do so, loaded with honours, as doubtless he will, and the subject of admiration to all his countrymen, who will find that he in a short period has surpassed the outdoings of the most superlative industry of a long life in that country—I say, this gentleman, whose payment was so good, that it muzzled all the other witnesses from giving information on that subject to your lordships inquiring thereafter—this man, it

seems, had an unsatisfied demand against Bergami in respect of that voyage. There were certain sums ascertained which I suppose were liquidated, and there were expectations arising from the royal quality of the persons on board, very well founded, I dare say—but I was only going to observe, that this gentleman goes through his examination in chief, goes through his cross-examination—and not one word, not any hint is given, that the government of this country, the opposite, the antagonist party to her majesty the Queen upon this inquiry, has found out that he was what he was—for that was a singular phrase, "I am what I am," namely Vincenzo Gargiulo," by hearing the loudness of his complaint against Bergami. Suppose he had never mentioned that, can you believe that he was not known to the government of the country by that means, that he was not well known to them? There are always two parties to knowledge, when there is a transaction; and if one party know, why should not the other? But the examination, the cross-examination, and the re-examination pass by; and in answer to a question put by a noble lord on that subject, fell out, or to use a phrase more appropriate, tumbled out this piece of evidence on the part of the prosecution. My lords, I imagine they thought that if he was deemed dissatisfied with one of these parties, and had a claim in respect of which he considered there was reason for that dissatisfaction, it might just be supposed, peradventure some persons might conclude, that he would be quite impartial, and in an indifferent state of mind, with respect to the government on the one hand, and her majesty the Queen on the other. My lords, if this was accident, that in an examination and re-examination, the information was withheld, it is very singular— it is a very curious coincidence—the odds are extremely high against its having happened in these five or six instances specified by me—and your lordships are aware in what degree the odds keep rising in each case—it is rather an odd cast of the dice, that this inadvertence should be, in all these instances, purely on one side. Yet so it is.

My lords; when upon that point, however, permit me to call your lordships attention to one of the instances of the examination; and as it is upon this point, I had better get rid of it at once; at least, having mentioned the subject of her examination, I shall do well probably to dismiss it at once—I mean the commentary of my learned friend, the solicitor-general upon the state of the dress of the Queen in that memorable, but, with reference to this case, most frivolous and contemptible incident, I mean the change of dress, in order to assume that of the character of the Genius of History—and in alluding to the Summing-up of my learned friend the solicitor-general, I must refer to the short-hand writer's notes, in order that I may not misrepresent him, and in order that I may show, that that subject of the entire change of dress to which I have adverted, as fraudulently answered by Demont, and ingeniously, with reference to the interests of the Queen, assumed against her majesty, was not altogether unimportant. Permit me to remark, and to call your lordships attention to, how that subject was dealt with by my learned friend the solicitor-general. He says, that she returned for the purpose of changing her dress, as the witness tells you, entirely, not in the least sinking that part of the case, but referring to the written examination and to the examination in chief only, and pressing that upon your lordships' attention, he says, that on that occasion she changed her dress, as the witness tells you, entirely. The chamber-maid was left in the anti-room, while the courier was introduced into the bed-room, and remained there during the whole time the princess was employed in changing her dress,*—a strong observation that, my lords, a powerful commentary that—and seeing that my learned friend the solicitor-general had the more difficulty in divining how the case could by possibility be met, that his difficulty consisted rather in summing up a case that was so lamentably strong that human nature could not suppose that it was to be answered—I say, considering that any thing of excess in the shape of statement might have been spared, one would think—and remembering the devout peroration wherewithal he concluded, and which I beg to repeat, that the judgment of your lordships might coincide with the universal wish of the people, that the Queen might come triumphantly through the charge—with his case, I say, so strong, that my learned friend's difficulty consisted in taxing his imagination, by figuring a possibility of a defence, it was rather hard

* See Vol. 2, p. 1352.

to tax that imagination again in the Summing-up, as he has done, by assuming, that that entire change of dress took place in the bed-room, of which not one word is in proof—which, from the beginning to the end is a gratuitous assumption, an unfounded assumption, a false statement, a fact untrue, a fact without proof and which I have therefore a right to say is untrue, a fact that shall be demonstrated (that it may not be left to mere inference) to be untrue in all its particulars, from first to last. My lords, that is a strong commentary—that is a powerful commentary against the Queen, if it was wholly inadvertent. It does so happen, that it is also all on the same side—all against the Queen. Here have we an instance, in one short sentence, of perverse misapplication, and I do not speak of my learned friend the solicitor-general now, when I use the phrase; but I speak of the witness, and I with propriety apply it, when I say, that when she wished this House to understand that it was an entire change of dress upon the occasion of assuming the character of the Genius of History, it was a malignant purpose, to deceive your lordships, to the prejudice of her ancient benefactress and mistress.

But, my lords, I have not quite done with that Summing-up of my learned friend the solicitor-general; for at that very time, and speaking upon the same subject, he goes on to state, that they were "locked up together for an hour in the bed-room"—gratuitous again!—a draft upon that imagination which had been in vain taxed to suppose how the Queen could defend and extricate herself—in one little sentence, in the compass of a short paragraph, has the hard-worn imagination of my learned friend introduced two strong, pregnant, leading facts, unfounded, utterly in proof, the only facts, to raise a guilty inference against the Queen—in one short sentence, two powerful, strong, unfounded assumptions against my royal mistress, the Queen.

My lords; it is not wholly without reason therefore, that I say, and saying I complain, that in the course of that examination to which I have called your attention, as by a specimen, for I cannot do more—time and my strength would fail me, if your lordships indulgence and patience could hold out—but I say, in this specimen to which I am calling your lordships' attention, there has been a strong and unfounded inference to the prejudice of the Queen; and I select these specimens, if your lordships will allow me to say so, as a sort (I speak with great deference, I am sure without offence), as a sort of clue and guide towards your examination of the rest of the case, and the Summing-up of my learned friend the attorney-general. I put to your lordships also, as a strong proof how some of these injurious and malignant misrepresentations (I speak now of the witnesses only) are worked up to the prejudice of that cause, of which I am the unworthy, but, I thank God, a zealous advocate.

My lords; I now will come to two other instances of the utter failure of the case, as it has been opened, and as it has been assumed in the course of the examination. One of them has been alluded to already, and I shall take up very little of your lordships' time upon that. My lords, I will first state the instance of the Genius of History. Now, I have perused the opening speech of my learned friend the attorney-general, and I call your lordships' attention to it, as I am sure he will give me credit when I say, with no malignant purpose, with no personal inclination against him—but I am doing my duty, cost what it may. My learned friend, I doubt not, most truly from his statement, most correctly from the evidence put into his hands, and that renders it the more important to my remark—my learned friend opened to your lordships, that the character assumed by her majesty the Queen was of a most indecent, and disgusting, and revolting nature—that was opened by my learned friend the attorney-general. I will not pledge myself to the words, but he stated it as a feature in the cause. My lords, upon the examination of Demont (I will give it to you presently) my learned friend the solicitor-general, who examined her, and, of course, bore in mind, not only the previous statement of my learned friend the attorney-general, but also the instructions of the evidence he had received, examined her himself, with reference to the nature and quality of that dress. My lords, in the course of the cross-examination of that witness, I put questions to her, believing that that was a colour, not then with the means of information, for means of information had been withheld from us by your lordships' judgment, of which I am not now complaining, but reminding you of it, for my

benefit, to make you vigilant at last, as you were not indulgent at first—my lords, I say, that not upon any information given to me (for I had none) but believing it not credible, that, in the presence of the Neapolitan court, that court where I well know, at least from the evidence of Demont where I have reason to believe, that the first females of that country were present, that it was a gross and malignant colour, or rather distortion of the transaction, to have it for a moment believed by your lordships, that that was an indecent dress. And accordingly my learned friend, the solicitor-general, examined to that point; but upon that examination, and still more upon the cross-examination, that utterly failed; and in his Summing-up he was pleased to ridicule me, for having wildly and childishly, as it were, forgotten the bearing of the case, when I spoke of the inspection of the Neapolitan court, male and female—forgetting his own examination—forgetting the opening of the attorney-general—not thinking that what is said and attempted to be proved reaches past the ears into the memory, recollection, and understandings of your lordships—so utterly did he abandon that part of the case, that he actually ridiculed my attempting to divert your lordships from a point in the cause, by endeavouring to explain that. How is this fact, my lords, and what am I to say to it? Are not my learned friends, the legal advisers of the Crown, both of them—I do not mean offence—are they not competent to examine and peruse that which appeared at a distance to be an extremely well printed brief? Do you not think they have gone through the deposition? Did Demont state that, aye or no? If she did not, it was an injurious statement; but I am sure, from my learned friend the attorney-general having stated it, he had it in his instructions—because he said, and I believe him, and this renders the remark more material, that he should forbear to state nothing that he verily believed he could prove—that he should state every thing that he believed he could prove. And accordingly, my lords, I therefore presume, and take leave to make it as an inference for your lordships to adopt, that in this particular case Demont had untruly, had falsely, had maliciously, had —when such interests are at stake, as not merely her royal mistress, but the tranquillity and existence of this renowned and glorious country—wickedly dealt, when she put that statement into the mouth of the attorney and solicitor-general. And what is the inference that I make? Why, that it is an imputation upon her testimony in proportion.

Now, my lords, while I am upon that subject, permit me to take the candid instance of the theatre San Carlos. There, also, the opening of the attorney-general was specific and precise; and I am in the memory of every noble lord, and I crave their recollection, and do intreat of them to indulge me with it, when I make the re-assertion, that my learned friend the attorney-general opened, that the Queen was hissed and exploded from that theatre, from the revolting, the disgusting, the infamous and ignominious nature of the dress which she had assumed. Now, let us turn, with your lordships permission, to page 256 of the printed Minutes, and you will find what happened to the party when they got into the pit, and there it stands, in Demont's evidence, that "many ugly masks surrounded us, and began to make a great noise and hissed us."—"Describe all which took place?" "These masks surrounded us, and we had great difficulty to withdraw, at last we went into a small room."—"Was there any thing particular in the dress which her royal highness wore?" "Her dress was very ugly, monstrous?"* and there it ends, and I think, if I do not utterly err or deceive myself in my memory, she previously stated, that there was a large cloak which her majesty the Queen had at that time. I suppose, she was not so dressed, as to be exactly known to all the persons. But, my lords, this is serious matter, and I will not trifle. How did Demont state that fact to them? Did she or did she not represent, that the Queen excited the indignation of the San Carlos audience, and was hissed by them accordingly? My lords, if she did not, it was an injurious statement, because unfounded, against her majesty the Queen; but it is not an injurious statement of my learned friends, because I will not suppose, that, for the sake of a momentary impression, and upon the chance that we all of us should slumber upon our duty, or abandon our trust, which we are not disposed to do, any of us—the meanest minister among us—I may say, that upon that certain knowledge, that they had that in-

* See Vol. 2, p. 1119.

formation given by Demont, do I put to your lordships, and fearlessly put it, that therein she committed a wicked, an abominable, an atrocious, because, to a mighty people, a dangerous falsehood. My lords, these are the methods, where evidence is by distance of time removed, by which the advocates of innocence are enabled to evince it, or, in other words, my lords, are enabled to clothe every person in this country, with that shield and armour of the law (for I will call it nothing less), that makes every person be presumed to be innocent until they are convicted of the contrary. That presumption, I say, if ever there was a case, from the first history of the justice of this country to this hour, which any court of justice was imperiously called upon to make, by every notion of benefit, by every advantage to the country, by every sense of justice to the accused, that case have your lordships now, and no other. My lords, it is a topic which has been anticipated I am aware; you have heard it pressed already, but it cannot be too often repeated, it cannot sink into your lordships minds too deeply, you cannot bear it in mind too intently, in order duly to appreciate, and finally to exercise a judgment upon, this most important, most singular, in many respects most revolting and astounding case.

My lords; there were instances given by my learned friend, the attorney-general for the Queen, in detail, and as we are upon the subject I will pursue it now, with respect to the curious coincidence, not of Majoochi's memory being, in common with human nature, frail at a distance of time, not of his not remembering every thing, but of his memory being of this description, which no man has, that it remembers all on one side. Now that I say is not an ordinary memory, that is an unusual memory, that is an unnatural memory, that is an impossible memory. The man who swears to that, states what is untrue upon his oath. Now let us take some of these instances; or rather, I beg your lordships will bear in mind the instances that were given by my honourable and learned friend, the attorney-general for the Queen, in which it is as manifest as that the sun is not yet down and that I am addressing you, that a man may commit as malignant, direct, and positive perjury in a regular shape, as an injury may be inflicted in the shape of omission as well as in the shape of commission.

Now, my lords, I beg to call your lordships attention to the Evidence of Majoochi at page 6 and page 40. The object of that Evidence at page 6, as your lordships will remember, was to show the conduct of the Queen in her visit to the room of Bergami when he was sick; and, I suppose, in order to fix her majesty with a witness, or to drive her to the necessity of calling that person as a witness, Majoochi, in the profundity of his condescension to us, named Dr. Holland as being of the party who were present. Now, at a distant part of his Evidence, namely, at page 40, my learned friend the attorney-general for the Queen, who, in that cross-examination, was in the same predicament with the rest of us—under your lordships orders, and under those indulgences asked and refused—under the necessity of trying, in ignorance what he, out of a reluctant witness, could obtain; and endeavouring manifestly, by the course of his cross-examination, to explain the visit that was made by the princess to Bergami at that time, by the fact of Bergami being too ill to raise any injurious inference against the Queen—that was the nature and object of it.—My learned friend asked him "Did you ever go into Bergami's room during the time of his illness?"—"I waited upon him."—"Did you find him there walking up and down the room?" "This I do not remember."—"Was he attended by any medical man?"*—with the same purpose, and in order to establish the fact, that Bergami then was in that state of health when malice itself would not raise an injurious inference against the Queen—what says the ever memorable and trusty *non mi ricordo?* Though that same man has with that impudence that distinguishes him, at page 6, reminded your lordships, when he thought it pressed against the Queen, that Dr. Holland was in attendance upon him, dressing his foot, and giving the office of the worthy doctor—he has the audacity to pervert that memory, when it is to operate against the Queen, by choosing to swear before your lordships, that "he does not remember" whether there was a doctor or not—O, most impartial memory of Majoochi! O, forgetfulness all on one side! O, probabilities of a story thus supported! Now, let any man alive who comes to canvass this, take an instance, if he pleases, and reason that in-

* See Vol. 2, p. 843.

stance through—whether a man partly remembers the same fact, in order to injure the person accused, and partly forgets it to injure her too, and does it with a safe conscience—and then will I say, that all persons, though they may have been legally convicted of perjury and suffered the punishment it deserves, have been hardly dealt with, in point of morals if that is not a wilful, a wicked, and a perverse misrepresentation of the truth.

My lords; when I am upon this subject—I am not desirous of taking up your time: indeed, I avoid it to the utmost; repetition is bad at all times, and justified only when the same thing comes over again, and should always be avoided—but I will now come to some instances with regard to Demont. And before I have done with her, I shall take an instance, and a most signal instance it is, of the amendment of memory of that witness—of her being inefficient the first time, better the second time, the third edition perfectly up to the mark. But, before I come to that part of the case, permit me, and it shall be very generally—permit me to ask, whether the account that that witness has given of the evidence that she furnishes against herself by the correspondence which is in proof before your lordships admits of any explanation, and if any, whether it admits of the explanation received from her in that most ingenious, most recondite, most elaborate, most composed explanation which she was pleased to give, after she had had a full night maturely to deliberate and to consult upon it? My lords, that amendment never, I believe, would have been made, if the explanation had been called for without that benefit and assistance. When I first began to examine her as to the letters, and early in that examination, the subject of *double entendre*, as your lordships will remember, escaped her lips. It was a remarkable expression, and, of course, it did not evade my notice; but, though she spoke in pages 325 and 326, of the *double entendre* and the *double entendre* which was to explain away an unknown person giving a letter when she was at visits at tea, of a fortune to be raised in London, which place is mentioned *nominatim*, and not by general description, I beg your lordships to remember, when you come to translate "the capital of Europe," which occurred afterwards when she spoke of the capital of Europe in that letter, that the day passed away, and she never invited of me, that I would permit her to make that explanation. The *double entendre* slept, until she had had a conference within a hundred miles of this place—I do not know how near, but near the building in which we are—and after she had had some person to assist her in the explanation. Accordingly, I say, the first day passed off without any explanation; and I do not wonder at her being slow in making it. But, no sooner does she come down the following morning, than in answer to each of my questions she says, "I have an explanation to make respecting that letter;" and knowing how much quicker women are upon these subjects than we are; knowing we should have no end of it till she had all the words out—I abstained from my examination of her till she had given that most redoubtable and curious explanation of that letter; for not till then could I get a single answer from her. She said, "May I not explain?" and out came the oration* that had been got up in the room where she did not know whether she was two hours or two minutes, well knowing I meant to insinuate that she was rehearsing. Swearing that she went home direct, she comes in the shape of a set speech, in the form of an oration, in the same form as one of Cicero's, or of the attorney-general's; she comes with an oration, containing a beginning, a middle and an end, to explain away the *double entendre*. She wished to have your lordships believe, that she went home directly from your lordships bar on the preceding day; but upon cross-examination she would not swear that she was not two hours in conference in an adjoining room before she ultimately retired. Your lordships will find this part of her evidence in page 353.† She first stated, that she went home directly, which neither in French nor English, Greek nor Hebrew, can mean any thing but that there was no necessary tarrying in this place.—Then out comes the explanation. But, after this preparation and study, after consulting the prosecutors and her pillow—was her explanation, my lords, in any respect satisfactory? Did she give any explanation to your lordships from first to last—does any man alive see—how she and her sister were to correspond by ciphers? I say there is no pretence, there is no shadow of a shade of sense in

* See Vol. 2, p. 1203.

† See Vol. 2, p. 1205.

her attempting to explain how the correspondence could be intelligibly carried on between her and her sister by cipher. My lords, would it not be trifling with your lordships, as she was trifling with her oath, if I were to waste time in impugning that feeble assertion. Notwithstanding all her acuteness—and she has enough of it; so much that in the next comedy in which a scheming chambermaid shall be introduced, she will not be forgotten, if the author has any sense, at least half as much as she has—notwithstanding all her ingenuity and acuteness, and preparation, is it not trifling with your lordships to attempt to argue and beat down by remark, that shameless interpretation, in which she would have you to believe, that she did not know but that by "the capital of Europe" she meant that obscure place in Switzerland to which I wish God, in his mercy to this country, had always confined her! But she leaves it as a matter of doubt, whether or not she did not mean by "the capital of Europe"— though within ten lines she has named London, and the advancement, and the place in London; for she had nothing but golden schemes and golden dreams—whether by the capital of Europe she meant London, or, God wot! Columbier; her native place! My lords, it is nauseating to attempt to beat out by argument, that which has no sense, that which "*neque rationem neque modum habet ullum*"—it is, in fact, nothing but what the comedian calls "*cum ratione insanire*"—I am, in fact, playing the fool before your lordships, and playing at argument when I am attempting to beat down that which is *felo de se*, by the folly of it. But though that may be as plain, as it is undoubtedly that I am addressing your lordships, I offer it as a specimen only; entreating your lordships to bear in mind, that when I advert to these things, it should not be supposed that I am consuming the subject. Far from it! let me be understood throughout, —for it is an important case, and this an important part of it. The specimens I give here, as the specimens elsewhere, I give as specimens only, and leave it to your lordships to work upon those specimens, to pursue the rest of the evidence, I hope with more industry than I have done; because upon your lordships higher, more important duties, more weighty and bulky interests, are cast, than are cast upon me—though I feel sufficiently the duties I have to perform.

My lords; again at page 377 of the Evidence (and it is the last instance I will trouble your lordships with), your lordships will find the following. Your lordships will see, that Demont is trying what she can do in the way of panegyric, and she selects, most properly, my gracious mistress the Queen as the subject of it: she says, "Ah! why was not the spirit of her royal highness at my side? she would then have found whether I be ungrateful. How often in a numerous circle, whilst with all the enthusiasm which animated me, I enumerated her great qualities, her rare talents, her mildness, her patience"--proofs of which she is hourly giving—"her charity, in short, all the perfections which she possesses in so eminent a degree"—did this honest waiting-woman write this under a cipher, or did she not?—"how often, I say, have I not seen my hearers affected, and heard them exclaim, how unjust is the world to cause so much unhappiness to one, who deserves it so little, and who is so worthy of being happy!"* Now, my lords, I ask again, was this meant as a fraudulent cover to another and a malignant meaning? Did this mean what it expresses, or did it mean any thing else? Is it improbable that she should so have applied it? Was the object to whom it referred undeserving of it? Has no other person ever said the same thing—or nearly the same thing? Methinks I have heard it reported to have been uttered somewhere or other, by somebody or other, and that no mean authority in classical taste, in elegant composition, in skill of the modern and ancient languages, worthy to undertake the panegyric of the Queen. Methinks I have heard it had been said somewhere or other, that she was "the grace, the life, and ornament"† of the society in which she moved. Did that person, if there was any such man who ever said so, trifle and joke also? Was it really meant, or was that also spoken with some mental reservation? My lords, I presume it was spoken sincerely, was spoken truly; and therefore, that that which the high authority in England could think worthy of his laboured panegyric, may have been worthy of the inferior composition of the chambermaid from Switzerland. I trust, therefore, that we

* See Vol. 2, p. 1224.

† Mr. Williams here alluded to the speech made by Mr. Canning in the House of Commons on the 7th of June, which will be found in Vol. 1, p. 962.

are not to have it supposed, what there is no good authority for believing, that this most honest, most just, most well-earned praise of her majesty the Queen meant otherwise than upon the face of the letter it means. I will not believe it. I will do her justice against herself. She malignantly and wilfully sins against her better nature, which would suggest to her something of gratitude to her benefactress, when she shamelessly would report, that this letter, and particularly the part to which I have alluded, was ever intended or meant except in the plain, direct, and obvious signification of the terms. And if so meant, never could I wish, with exception of that higher classical authority—I hardly could wish—a more powerful composition in favour of the Queen, than this very passage which this woman has written, when she was writing what she actually thought, and not when she was erroneously and foolishly and malignantly, but ineffectually, endeavouring to explain her just thoughts, and how she might, by lies and misrepresentation, get the better of her own truth. I know not, I am sure, how far, if it had become material in this case, I might not have had at your lordships bar that authentic composition pronounced from the mouth of the accomplished person to whom I have alluded, if it had been necessary, and if that had been ever deemed any part of the Evidence in the case that could be material,—I know not how far I might not have had it—perhaps, that more authentic, more important, more valuable because *vivâ voce* evidence, in favour of my royal mistress, from the mouth of the accomplished person to whom I allude. But, my lords, I see him not.

Now, my lords, permit me to come to another part of the case, and there also to call your lordships a little in detail, that is, I mean by inference, to instances; that I may not waste your time by general and unmeaning assertions, by profitless generalities. And I do it now with the more pleasure, because I am enabled, for a season at least, to bear my humble testimony, and to pass my immaterial and indifferent, but at least (if they think it worth their acceptance) my honest testimony in their favour, with regard to an important declaration that was made by both my learned friends, the attorney and the solicitor-general. My lords, I have only to regret, that it was not perfectly acted upon. My lords, I allude more particularly to that wise declaration of my learned friend the solicitor-general, which lest I should misquote him, I will give in his own words, as taken by the short-hand writer. After speaking of the pain with which my learned friends had taken this case into their hands—for in their hands it is undoubtedly, and somebody sets them in motion, though who that somebody is, though we suffer under it, we are left even yet somewhat to conjecture—the solicitor-general having stated, that they had taken upon themselves that burthen with an adequate sense of its weight, proceeds to state this—"we weighed, we considered, all the materials and every part of the evidence which we thought bore at all upon this question; every part of the evidence which we thought material to this inquiry; and without regard"—wise and important declaration, and needing only to be acted upon—"without regard to the influence or the impression which it might create, we thought it our duty, fully, fairly, and candidly, to present it to your lordships." "We were not to make ourselves parties," says my learned friend, "in this inquiry; we were acting under your lordships direction; and we have pursued that course, which I have stated, honestly, faithfully, and fairly, to the best of our judgment and our ability."* The whole of which general declarations, even though they are a compliment paid by my learned friend to himself, which is not the most authentic panegyric—but if they had been paid by any one else—I should be the last to quarrel with it. Nevertheless this is a feature in the Queen's cause—this is the Queen's case. Here have I, in the language of the solicitor-general, all that I ask of your lordships. "We undertake," said they, "to bring before your lordships all the evidence in the case, not of a condemnatory nature only, but whatever bearing it may have; whatever be its tendency, whatever its object, for or against the Queen"—for or against the country, I might add—"that evidence you shall have." My lords, to our infinite regret and signal dismay, scarce had I treasured up these proverbial words of wisdom—scarce had I noted down this Summing-up, and this statement above all praise—this statement that went to point out to your lordships that which I state, that it is not a cause with adverse parties, that it is a case which requires that the truth,

* See Vol. 2, p. 1345.

the whole truth, and nothing but the truth, should be before you, or, to give it more immediately the proper term, the evidence, and nothing but the evidence and all the evidence which the case bears, whether it be for or against the Queen — scarce had my well-satisfied ears received that declaration and treasured it up, before, to my surprise, I found, and that speedily also, that my learned friend gave no less than four distinct and substantive challenges to us, of counsel for her majesty the Queen, as if we were in a *nisi prius* case for the recovery of 5*l.* for goods sold and delivered, to call witnesses before your lordships—a challenge to call Louis Bergami, a challenge to call Marriette Bron, a challenge to call Bergami, a challenge to call another—four distinct instances; to some of which I will call your lordships attention to show how impossible and how fruitless to contradict was each of the instances to which he alluded. What has become of the signal wisdom which I have been praising? Where has departed that fairness with which your lordships, and the people of England, my lords, should have been met? Where are those witnesses? Where is Demont's sister Marriette? Where Maurice Credi? Where the noble ladies who had been about the princess? Where Dr. Holland, and that class, whoever they may be, to whom allusion has been made—who are in existence, some in England, who are credible witnesses, who are competent witnesses, who ought to have been called? What has become of the declaration, my lords? What am I now to say to the wisdom of it? My lords, it has evaporated in practice; it sounds only in empty speech, but in practice it operates nothing. As if we were in the most adverse case—as if in the mere manœuvre of *nisi prius*—as if it were a futile controversy for cost upon a subject of five pounds, where the parties, to their loss, have discovered that they have been fooling away their money about nothing, that the cost was every thing, the cause nothing, with the mere tact of a *nisi prius* manœuvre, my learned friend the solicitor-general calls upon us, representing the Queen, to call evidence on our side! Good God, my lords; I say there is no such side, I say, with the solicitor-general's words, and defend him against his acts, that his original declaration is true, and that these are the witnesses for us now, because they are not called. I say that they speak loudly—*dum tacent loquuntur*—their very absence is proof of their not daring to call them before your lordships—as if we were managing a contemptible cause, instead of one which involves the welfare of the country, yourselves, and posterity. Good God! I say, that in such a cause, after such a declaration, that all the evidence, that every thing, be it as it may, that the whole proof, that every thing that could be got, in whatever aspect, with whatever bearing, should be brought before your lordships—after that declaration, to turn upon her majesty the Queen, and to say, "I defy you to call this person, that person, and the other! My lords, I say that even in civil cases (I speak with great deference; my practice is not much; my authority nothing) I have repeatedly heard that maxim in the administration of justice pushed too far; I think I have often heard it injuriously said to one of the parties, "if you do not choose to call the witness, the other party may." With deference, however, I think and believe, that a party coming forward should make out his own case, and that the absence of proof upon that case to sustain and fortify it, has direct operation in favour of the opposite party. But, my lords, in a criminal case, who ever heard of such a thing? True it is, that in civil practice, a manœuvre is fair, if I can get for the grocer his five pounds and costs by not calling a witness which the other party may—no person is interested— it is a suit between me and my learned antagonists—as we all call each other learned. But I speak the practice of the law of England—I speak the sentiment of every man, I trust, who hears me, that in a criminal case, the dexterity, the manœuvre that may be considered meritorious in the civil, would, I apprehend, be fairly imputed to a dishonourable want of gentlemanly feeling—nay, I will go farther, to a want of sense, of justice to the country, in the other. Good God! who ever heard, I do not say in the history of English justice, but of English injustice, if there be such a thing—whoever heard, when the party imagines his case in even scales, of the unfortunate accused being met with, this —I do not know what to call it—admonition I cannot; for it would amount to condemnation—"Why did you not call this person, that person, or the other person, who is alive, who is on the back of the indictment, whom the prosecutor had

in his power, but chooses to leave the case doubtful, rather than call that witness who might explain away that doubt?" My lords, I will only say this, that if I, with some practice in that particular, were prosecuting a man for murder, and had a witness in my brief that I knew would bear in favour of the accused, and I forbore to call that witness, and did not put him in the box fairly for the prisoner, and that man was hung, I should think I was accessory to his murder.

My lords; what is this cause but a criminal cause, if ever there was one, from the beginning of the world, until this hour? What can be more criminal in its consequences, than to strip a queen of her pre-eminences and her dignities? Why are we in this most criminal case, most criminal in its consequences, most criminal in its imputation, most injurious in every bearing, to depart from the wise, the liberal, and appropriate declaration of my learned friend, the solicitor-general, the wise, the humane, the tolerant practice and usual principles of the law of England? My lords, I repeat it—that these witnesses not being called, are called for the Queen—I say that Ann Preising, the body servant of the Queen for two months, during a period of that time which covers the imputed crime—that her not being called—that Maurice Credi not being called—that a variety of other persons to whom I have alluded not being called, who knew something and would have proved something on one side or the other, are not called, I have a right to take it, because the solicitor-general says he casts a challenge in our teeth—as if he was at *nisi prius*, manœuvreing us into a verdict; instead of discussing the cause of kingdoms and empires, wherein your lordships should have no legal manœuvres, no dexterities of advocates, but the impartial and the whole truth. My lords, I am earnest upon this subject even to seriousness. It befits me to be so. If in my expressions any apparent warmth has escaped me, believe me, it is my zeal, not merely for the interests of my illustrious client, whose character, honour, and dignity are at stake, but for the tranquillity and happiness of this great country, which are no less in jeopardy, that causes me to call upon your lordships well to consider, maturely to weigh, to pause and to hesitate, upon this view of the case, which, earnestly and anxiously, and zealously, as becomes me, but believe me, my lords, respectfully, because I believe successfully, I am submitting to your lordships.

My lords; having mentioned the subject of the challenge, let me advert to the cases which were put. "I defy my learned friends to call Louis Bergami," says my learned friend the solicitor-general. What is the meaning of that? Why, "if they do, I shall get a verdict—if they do I shall succeed, I shall have the unprofitable success, the hazardous and dangerous pleasure, that worst of all mischiefs, that the bill shall pass; I defy my learned friends to call so and so." Now, what, in the name of wonder and common sense, even taking up this in a way which, with all my spirit I despise—I speak nothing offensively with reference to my learned friend—what, I ask, in the face of your lordships and the country, can make this course admissible in this cause? Let us take the first instance. It appears Majoochi is supposed to have sworn to the fact of the Queen and Bergami having breakfasted together. Therefore, the solicitor-general imagines, that if that was not true, we might call Louis Bergami to prove the contrary. Now let us see another case, and it will solve this sphynx-like riddle. Who waited on them? "Louis Bergami or Camera," Why is Louis Bergami to be called? Is he vouched to be present with Majoochi? If your lordships find a word of that in the evidence of Majoochi, I am mistaken. I believe there is no such thing. If Majoochi had, to that comparatively trifling feature and fringe of the case, vouched his presence, that might have been another thing—there might have been a sense and meaning in it, if we had been in a civil cause for the recovery of damages—but he not having so vouched, not only is it useless in this great cause of an empire, not only is it contemptible to hear of it, but it has not that importance that contemptible and least of all merits, to have any application whatever even to a slight trivial reason, not of law, beyond the advocate's dexterity, from whence it came and ought to be confined.

Now let us take another Bergami—the subject of the Iliad. "You may call him. Why did you not call Bartholomew Bergami? I defy you. If you do, I shall get the verdict"—meaning, I suppose, it will create perplexing distress, consequences no human being can contemplete without dread—"I shall get the

verdict." — a penny damages, we will suppose. But what is the meaning of this challenge — what is the common sense of it? — If they mean the pitiful and tradesman-like rule which is fit only for us in the lowest part of our trade, and not for your lordships in cases of empires — even then, upon that low consideration, I say, it is a challenge that has no meaning — a *telum imbelle sine ictu.* Why, the senselessness of it amounts to this, that, in the first place, if we were to be caught by such a challenge, or that such a bait were sufficient to catch our youthful milky and puny understandings, the bare fact of his being brought here by the Queen, would be pretty much, *ex-concesso*, like an admission of the case. How can my learned friend slumber so much, as to throw out a challenge of that description? But moreover he challenges us to call a witness before your lordships to a particular fact which, while human nature remains the same, I do not say will subject him to the crime of perjury, but would make the morality of that offence at least ambiguous, and would, in a very considerable degree, tend to diminish, as I apprehend, the quality of that crime. But I care not whether that be so or not. I do not speak to former rules or technicalities of law; I speak to your lordships as men of experience and men of the world and of sense; and I ask, be his crime more or less, would any man alive expect that his answer on that subject, would be of other than of one and the same description? But I care not how your lordships answer that question — I care not if I should have the opinion of every noble lord I am addressing against me on that point — still, I stand on the other, and fearlessly say, that in a case criminal like this, and of such importance as this, it is a shameless prostitution of a low, contemptible, and tricking rule, unworthy of the attention of your lordships, unworthy of your great legislative and political character. For be it never forgotten — and when I was upon the subject of law-proceedings, well might I have introduced the subject to your lordships—be it never forgotten, that your lordships are not merely sitting with the trammels of the law about you, to inquire into a fact; but you are legislating upon the existence of this empire. And analogy, which has been—shamelessly, I had almost said (I mean no offence I am sure) but has been improperly almost to a degree of shamelessness, introduced, between criminal proceedings in the ordinary tribunals, and this Bill of Pains and Penalties, which, as Mr. Burke, speaking of a precisely similar measure, says, except explained away or rendered imperative by extreme necessity, are, as lord Cowper called them in his protest, "a shameful part of the constitution" — I say, my lords, it is shamelessly stated, that there is any analogy between criminal proceedings in the ordinary tribunals, and this measure. Why do I say so? Where is the instance in which to certain crimes, if proved, certain penalties are not affixed? to murder and burglary death — to cases of false money and forged notes a definite punishment is prescribed by the law. What is done? A man is charged with the fact; and when the fact is made out, there is an end of the case, for the legal conclusion follows. But what is it here? What is the conclusion of guilt? Suppose your lordships thought the preamble proved, where is it found? Where is the text, where the statute, where is the law of the land, that enables any body to say, "we shamelessly draw the analogy, that there is a specific punishment chalked out?" None, my lords; and therefore I make the remark, that you are, in your legislative and political character, far above the technicalities of law. There is no analogy between the common law of the land, which has the punishment fixed first, and has only the factsto inquire into, and the present case, in which the facts and the law, the guilt and the consequences, the legislative measure and the legal inquiry (if I must, for the sake of language so speak) are all at once together before your lordships in your high tribunal, which far surpasses in importance, which far in dignity excels, any of the ordinary tribunals, though I am continually asserting that your forms and usages of proceedings are at variance with those used in this particular case. Therefore let us hear no more of that fancied analogy, which, in no one point, serves them — which in every particular is against the Queen, and with reference to that end, has no one bearing in her favour — except that it submits the whole question to the enlightened wisdom of your lordships — taking, in every view of the case, every possible result — the case, the whole case, substantial justice, and every thing that belongs to it.

My lords; upon this part of the case, I have been somewhat led away from that which undoubtedly remains to me in a great degree to do. Protesting, as I do, to the utmost of my power — protesting as zealously, though not as effectually, as my honourable and learned friend who went before me, that the non-production of these witnesses on the other side, is in effect, the loud and clamorous evidence of every one of them in favour of the Queen — yet, nevertheless, there are too high interests at stake to rest even upon the pregnant inference which I doubt not results from, I will not say, that necessary rule of law, but that fundamental principle of natural equity and justice. But witnesses, my lords, you will have. The challenge will be met; and, with respect to those witnesses, and, with respect to what they are to prove, I beg to be distinctly understood in what I am about to offer. When, on the other side, by three years constant application, equitable commissions, legal commissions, military commissions, examinations upon oath, examinations without oath, examinations in Italy, examinations by the way, examinations in this country, they have ascertained, to a letter, to a tittle, to a figure, what a witness could say, there is, my lords, reason to suppose that the facts——

The Earl of *Lauderdale*.—I wish counsel may withdraw. My lords, as Mr. Williams is going now to state what he means the witnesses to prove, and it is four o'clock, perhaps it will be best to stop him at this period.

Ordered, That the further consideration and second reading of the said Bill be adjourned till to-morrow morning ten o'clock.

HOUSE OF LORDS.

Thursday, October 5.

FOREIGN AFFAIRS — REVOLUTION IN NAPLES.]—Lord *Holland* said, that before the counsel were called in, he thought it necessary to ask the noble earl opposite a few questions on the subject of our foreign relations. Among the mass of papers on the table there was a treaty, by which the five great powers of Europe had formed themselves into a tribunal to judge of the conduct of other nations. They had established a sort of state policy, by which they were, on every emergency, forcibly to interfere in the concerns of other countries. From the armaments of Austria, and the publications which had taken place, it seemed to be thought that that emergency had now arrived. The great variety of menacing papers which had appeared in the foreign journals, both from Russia and Austria, on this subject, gave him a right, he conceived, to ask the noble earl to state what connection, if any, subsisted between the engagements of this country and the proceedings of Austria with respect to Naples? But assuredly he did not ask this question in any spirit of hostility towards the noble earl. He was solely induced to ask the question because he thought it fit that their lordships and the public should be put in possession of the sentiments and views of his majesty's government on this subject. He asked it, too, in the confidence that the answer of the noble earl would, like that given to the question he (lord Holland) had put in the similar case of Spain, redound to the credit of ministers themselves, and prove beneficial to the country. Such an answer would also be useful to those who, in another part of the world, might wish to effect a revolution advantageous to their country. He therefore asked, whether any communication had taken place respecting the object of the armaments now making by Austria, and whether that power had demanded any assistance? If such demand had been made, he wished to know what answer had been given by ministers, and whether any countenance had been given, directly or indirectly, to the principles of interference in the concerns of independent nations professed by the great powers of the continent? He was also desirous of knowing whether the revolution which had taken place in Naples altered in any degree, the relations of amity which had previously subsisted between his majesty and the king of the Two Sicilies? He trusted that the answers of the noble earl to these questions would be such as to show that his majesty's government had no concern, and felt no common interest in any schemes which had for their object an interference in the domestic affairs of other nations.

The Earl of *Liverpool* said, he was perfectly willing to give his noble friend an answer, which he trusted, would be considered satisfactory: at the same time he thought it necessary to observe, that

their lordships must be aware that, consistently with his public duty, some points of these questions were of a nature to preclude minute explanations. The noble lord regarded the events which had taken place at Naples as similar to those which occurred in Spain. Before, therefore, he answered the questions of the noble lord, he thought it expedient, in order to obviate any misconception on this subject, to state, that he certainly thought the revolution in Naples differed considerably from that in Spain. This difference arose out of the state of the Sicilian dominions; for it was notorious, that there subsisted a division between the two members of that monarchy, and it did not appear that Sicily had yet acquiesced in the system of government established at Naples. Having stated thus much, he should now, in answer to the noble lord's questions, say — without giving up the right of the government of this country to interfere in the concerns of other nations, under certain circumstances which might call for such interference — that he had no difficulty in declaring, that it was no part of the policy of his majesty's government to interfere in the internal affairs of other states, and that the government was no party either directly or indirectly, to any engagements for such a purpose. He wished it to be distinctly understood, that in what he said, he never meant to fetter the discretion of the government as to what might be thought fitting under particular circumstances: nor was he giving any opinion as to what other countries might think fit to do in the situation in which they might be placed. On these points his noble friend had no right to expect him to enter into details. As he had said, however, he had no hesitation in declaring, that it was no part of the policy of this country to interfere with the internal government of other states, and that no engagements to that effect existed.

Lord *Holland* was happy to hear the explanation which had been given, so far as it went; but the noble earl had not fully answered his questions. The noble earl had alluded to a difference between the cases of Spain and Naples, in consequence of the division which appeared to subsist between the two members of the latter monarchy. He should be glad if the noble earl would inform him, whether he considered the events which constituted that difference, to have altered the relations of amity which had previously existed between his majesty and the king of the Two Sicilies; and whether that difference appeared to him such as to bring the case of Naples in any way within the exception to which he had alluded.

The Earl of *Liverpool* said, he had omitted to answer the noble lord's question respecting the relations between this country and Naples merely from oversight. It was well known that a gentleman of great respectability had for some time filled the situation of his majesty's minister to the king of the Two Sicilies. That gentleman was still at Naples, but not in the same character. He had no hesitation in stating, that since the late change took place at Naples no new letters of credence had been sent out to sir W. A'Court. The existing state of the government of Naples would sufficiently account for this; but the fact was, that, under the present circumstances, it had not been thought right to give any new letters of credence to his majesty's ministers at Naples.

Lord *Holland* asked, whether the occurrence of such a revolution in a country like that of Naples was thought a sufficient reason for renewing letters of credence to an ambassador?

The Earl of *Liverpool* did not mean to say that, under ordinary circumstances, when a revolution took place, new credentials should be given to the resident ambassador of this country. He had, however, no difficulty in informing their lordships, that, in the existing state of Naples, it had not been thought fit yet to give any new letters of credence, and none had been received from the government of that country.

Earl *Grey* repeated the statement which he understood the noble earl to have made, and observed, that its result was, that the late accredited minister of Great Britain at Naples remained there in no official station. This, he must contend, was a suspension of the amicable relations between the two countries, which the events that had occurred at Naples did not justify. He had heard the declaration of the noble earl on this subject with great pain. He admitted that the division which subsisted between the two states which composed the Sicilian dominions constituted a difference between the revolutions of Spain and Naples; but that difference was not such as to make it right in this government to sus-

pend the usual relations of amity with his Neapolitan majesty; more especially at a time when every motive of interest and policy dictated the extending and cultivating the relations of peace with every part of the world. From what the noble earl had said upon the present situation of his majesty's minister at Naples, it appeared, that he thought new letters of credence necessary. Now, suppose the king of Naples had been continued in the exercise of the royal authority, notwithstanding the revolution, would new letters of credence have then been necessary? The noble lord, it appears, thinks not. Then how did the circumstance of the duke of Calabria, to whom the king had delegated his authority, being at the head of the government, make such a difference? He apprehended that the very same thing had occurred at Naples as had taken place here when the prince-regent was placed at the head of the government of this country, that is, that the sovereign authority of Naples was exercised by the king's son, as vicar-general of the kingdom. He could not, therefore, think that what had fallen from the noble earl on this subject was any encouraging symptom of that amicable spirit by which he represented his majesty's ministers to be guided. There was another circumstance in the noble earl's explanation which was not quite satisfactory. If he had rightly heard and rightly understood what passed, the noble earl had intimated, that whatever measures might now be taking by Austria or other powers, in hostility to the revolution of Naples, such proceedings, whatever they might be, had not taken place in consequence of any communication with this country, and had not received any encouragement whatever from his majesty's government. He wished that the noble earl had added, that these proceedings had not only not received, but that there existed no disposition to give them, any encouragement. He hoped, however, that he might understand him in this sense. Into the abstract question of possible cases in which interference might be justifiable, he should not enter; that such cases might occur every body admitted; it was sufficient that they did not now exist. But, supposing things to remain as they were at present, he must consider the government as solemnly pledged, in the face of the House and of Europe, that no encouragement, direct or indirect, was to be given to any measures that Austria might adopt with a view to interference in the affairs of Naples. This pledge would be of the greatest advantage to this country and to Europe at the present moment, when sentiments prevailed such as those he had seen in a state-paper lately published. That paper he had read with disgust, as it contained those principles of arbitrary power, which were more consistent with a conspiracy of kings against liberty than with an alliance deserving the name of "Holy". He was glad, therefore, to hear that no encouragement, direct or indirect, was to be given to Austria.

The Earl of *Liverpool* thought it necessary to rise again to obviate any misunderstanding. He wished to repeat, that it was not the policy of this country, at this time, under present circumstances, to interfere with the internal concerns of any other country—that this country was no party, directly or indirectly, to any engagements of such a character, and had not, directly or indirectly, encouraged any measures of the nature alluded to on the part of other governments. This he stated most distinctly, with the reserve that he would not fetter the discretion of the government of this country by saying what course might thereafter be pursued under possible and eventual circumstances. All he desired was, that what he had stated might be taken in the terms in which he had stated it, and not in those in which others might describe it.

COLONEL BROWNE AND M. MARRIETTI.] The Marquis of *Lansdown* said, that having been the person who had first called the attention of their lordships to a letter of M. Marrietti, which seemed to indicate an attempt on the part of colonel Browne to interfere with the witnesses in the cause of the Queen, on the subject of which, papers had been laid before the House [See p. 109], he should have been sincerely happy to express his satisfaction at the explanation which had been given in the letters which the noble earl (Liverpool) had produced. Unfortunately, that was not in his power, as a letter had come into his possession at the same time that the noble earl had produced his explanation, which letter tended to throw a light on the proceedings very different from that which the noble earl's explanation had cast on them. That letter had been sent to him by a person with whom he had had no previous intimacy, and who had given him no

special authority to make public use of it, and he, in the exercise of his discretion, had thought fit not to do so. But since that time, not only the letter to which he had alluded, but other letters, throwing a still stronger light upon the case, had made their appearance in the public papers; and, great as his satisfaction would be in declaring his conviction that there had been no interference, he could not now have that satisfaction. Any of their lordships who had read the papers in which those letters were contained, would see that the case could not rest there. Far would it be from him, even on the assertion of Mr. Marrietti, though he believed him to be as respectable as any man, to condemn an individual without a hearing. But if their lordships would read those letters, they could not help feeling a doubt that Mr. Marrietti was induced to make the communication to his son, not by a direct intimation from colonel Browne (for that was negatived), but by one conveyed through the confidential clerk. The first letter of the elder Marrietti, which bore date the 16th September, contained the following passage:—"It is true that Browne has expressly and repeatedly insisted, with Mr. Albertonio, that he should make known to you the dissatisfaction in that quarter towards you, and the danger of the Alien bill which you were going to encounter." That letter had been written after a knowledge of what had taken place in England. There was a subsequent letter from the same gentleman, dated Milan, Sept. 20, in which it is said, "He (col. Browne) seeing himself much disquieted on this account, made such an application to Signor D. Ciceri, and to Signor Albertonio, that the former begged me to convey to the said colonel Browne a letter of mine, which, in a certain way (in certo qual modo,) might justify him with his government from the too rigorous interpretation given to my former letter. And after having written and re-written, through the medium of the said Signor Ciceri, draughts of such a letter to be shown, the copy which I inclose to your address was fixed upon. You will likewise find the copy of a letter which the said colonel Browne desired from the said Signor Albertonio, who gave me the account contained in the letters formerly addressed to you. To the honour of truth, I have regarded what colonel Browne said, through the medium of Signor Albertonio, as an act of friendship, to prevent him from being brought into any danger. Nor could I ever have imagined that such a thing could have been of as much importance as it has proved. However that be, to facilitate the allaying of such a controversy, and to preserve amity with all, I have thought proper to second it, as you will perceive by the copy. They wished me to declare that my first letter was the result of my own simple suspicion, and had no ground to rest upon; but this I will not allow, because the having named colonel Browne in the way I did, would have been charged on me as a calumnious imputation; and, therefore, you will see in my letter sent yesterday to him (colonel Browne) that I mention my not having direct conversation with him, and derive my information from what he caused to be said to me by Signor Albertonio. Regulate yourself, therefore, in every thing, with the greatest prudence, in order not to incur other annoyances and other dissatisfactions, which can only produce evil to you." The expression of the Italian, as to the purpose of the representation he had made, was stronger—it was *lasciar anello*, to leave a loop-hole, "to leave a ring" on which to hang, as it were, an exculpation. Now, as to the considering all this interference of colonel Browne a mere act of friendship—this intimation to a person of whom he had no knowledge, and made, too, through a confidential clerk—considered, too, as emanating from a person who was the agent for the opposing party in the Queen's cause, and representing, as the noble earl said, though in a qualified degree, the government of England—how could it be regarded by an individual like M. Marrietti, who was living under a government, of which it was no satire to say, that it was absolute and despotic, for such it professed itself to be—under the Austrian government of Milan—but as a wish to influence his conduct? He did not wish to prejudge, even now, the conduct of colonel Browne, but he felt it impossible, that the explanation which had been given should now be considered as satisfactory. Further explanation must be had, and the making the letters evidence, would be the mode, perhaps, of bringing the whole case under the view of the House. M. Marrietti could be called to state whether the letters were authentic.

The Earl of *Liverpool* said, he perfectly agreed, that after the publication of the

letters alluded to, or even if they had not been published—if any such letters had been in existence, it was impossible that the thing could rest where it was. He only desired that their lordships would not form any opinion to the prejudice of colonel Browne, till further explanation had been asked or given. It would be observed that colonel Browne had never had any communication with M. Marrietti; that every communication that had taken place, must have passed through a third person, M. Albertonio. It would be observed, too, that he had never mentioned the Alien act, at least, so he asserted, and M. Albertonio did not deny it. He (the earl of Liverpool) was willing that the documents should in some way be made official, that the fullest inquiry might take place. They might be addressed to some official person, or M Marrietti might be called to the bar to authenticate them. Some subsequent proceeding might then be had.

The Marquis of *Lansdown* said, there was contained in the letters no distinct denial that the Alien act had been referred to. M. Albertonio only said, he was ignorant of its provisions, and that the personal security of M. Marrietti had not been threatened. Colonel Browne did not say whether or no the Alien act had been alluded to; he denied that any threat had been used.

The Earl of *Liverpool* wished all the letters to be put in; the first letter of M. Marrietti, in which the discussion originated, as well as the others.

Joseph Marrietti was now conducted to the bar, and having been sworn, he underwent the following examination:—

The *Clerk* of the House.—You are desired to look at those letters (handing to the witness the letters produced by the marquis of Lansdown). The witness took the letters into his hand.

The Marquis of *Lansdown*.—Having looked at those letters, Mr. Marrietti, inform the House whether they are the original letters you have received from your father?—A. The first is an original letter written by my father to me, and is dated the 21st of August; I received it by post. The second is the 16th September; my father wrote it, and it was inclosed to me.

The *Lord Chancellor*.—By post?—A. By post; but it was inclosed in another letter. The third is a copy of a letter written by my father to colonel Browne. The fourth I received in a fifth letter It is a copy of a letter from colonel Fletcher to colonel Browne, and dated the 20th of September. I received it by post, inclosed in an envelope.

The Earl of *Lauderdale*.—Are these in the hand-writing of your father?—A. They are.

The Marquis of *Lansdown*.—Has Mr. Marrietti received any other letters on this subject from his father?—A. No.

Or from Mr. Albertonio?—A. None from Mr. Albertonio. He wrote to me some time ago, telling me that it was stated by some person, the name of which person I forget, that I had been seen in the house of Demont. I answered, it was not true, because I had not seen Demont.

Who is the Signor D. Ciceri, mentioned in one of those letters?—A. M. D. Ciceri was a friend of ours, who came to our house; and I know he was also a very great friend of colonel Browne's, because when I came here he begged of me to bring some dispatches for colonel Browne.

Have you in your possession that letter which you say you received from M. Albertonio?—A. I believe I have.

The *Lord Chancellor*.—Then be so good as to inform the House to-morrow whether you have or not.

Mr. Marrietti then withdrew.

BILL OF PAINS AND PENALTIES AGAINST HER MAJESTY.] The order of the day being read for the further consideration and second reading of the Bill, intituled "An Act to deprive "Her Majesty Caroline Amelia Eliza-"beth of the Title, Prerogatives, Rights, "Privileges, and Exemptions of Queen "Consort of this Realm, and to dissolve "the Marriage between His Majesty "and the said Caroline Amelia Eliza-"beth;" and for hearing counsel for and against the same;

Counsel were accordingly called in. Then,

Mr. *Williams* resumed his speech, and addressed their lordships as follows—

My lords; there was no part of the case, I believe, on which more of your lordships time was occupied—certainly none, in which my learned friend, the attorney-general for the Queen, exerted himself with so much effect—none, in which I attempted to present so many observations to your lordships, as that

part of the case which consisted in the counsel on the other side having been deficient in calling all the witnesses that might naturally have been expected, and of our being, on behalf of the Queen, exempted, in consequence of that, from being driven to call evidence at all. My lords, that observation receives strong confirmation, from the peculiar difficulties in which her majesty is placed; and as I stated to your lordships yesterday, that observations pointed to and founded upon particular facts, lead to more decisive conclusions, and have much more impression, and deserve to have, than vague generalities, permit me to commence my statement to your lordships to day, by mentioning one or two facts descriptive of those difficulties under which her majesty labours.

My lords; your lordships bear in mind doubtless, the case that was attempted to be proved at Carlsruhe by a woman of the name of Kress. The evidence upon that occasion it is not my present purpose—as, indeed, it has been already more than once commented upon—to state; but only to allude to. Your lordships bear in mind, that the general nature of the case, as proved by that woman, was, the seeing her majesty and Bergami together in a bed-room, with some detail about the situation of the arm of Bergami, which your lordships will remember. Now, of course, nothing could be more necessary, when the Queen, however late, was apprised of the nature of the charge against her, than that every possible inquiry should be made, that all diligence should be exerted, to obtain information on the subject of her residence at that place. And, amongst others, it appears, that a chamberlain of the grand duke of Baden was in a great degree in attendance upon her majesty. Now, therefore, that the evidence of this person in all probability might be—that without something extraordinary it must be—material to your lordships, it would be a superfluous waste of time in me to observe; that person having been, as I have stated imperfectly, "appointed to attend the Queen"; which might mean for some short time—whereas, it was an appointment to attend her, during the whole of her residence at that place. Accordingly, my lords, feeling the importance of that evidence, and being desirous, in so far as it was possible, to be armed against the case that was set up against the Queen, her majesty wrote a letter, with her own hand, which her majesty sent by a special messenger of the most respectable sort, that it might be the most respectable, to the chamberlain, the witness in question—I mean by the brother of my honourable and learned friend the attorney-general to the Queen. That letter, however, did not procure the attendance of that witness. The Queen then wrote another letter with her own hand, and sent it by another messenger—one, I believe, again to the chamberlain, and another to the grand duke. Three letters, therefore, were sent, by special messengers, to this particular person and most important witness on behalf of the Queen, which have failed in the production of that witness. And, upon the last occasion, to the witness that was sent by the Queen to obtain the production of the chamberlain, he expressed himself to be desirous and willing to come, and anxious in the extreme; but he declared, with tears in his eyes, that he had express orders to the contrary from the grand duke; and he has not arrived accordingly. And that, my lords, permit me to say it, is a circumstance for your lordships recollection, which I am sure I need not refresh—that this refusal comes from the very same quarter, whence, by the pressure of two ministers and two ambassadors, the woman Kress had been partly compelled to come to this country. Thus, the operation for procuring evidence, appears, like the memory of some of the witnesses, of which I yesterday spoke, to run all one way.

Now, my lords, again. It appears, that her majesty the Queen had seen a palace at Radstadt, of which she wished to become the occupier. There was no objection expressed by the grand duke at the time—on the contrary, to such a stage had the treaty proceeded, with reference to the obtaining this palace, that this very same chamberlain who, if he had been called, might also have proved that fact, and which, therefore, perhaps, may account for his absence—this chamberlain had gone the length of purchasing furniture in order to equip that palace. And when in that state of forwardness, an intimation was given to her majesty the Queen, that the residence at Radstadt of her majesty might not be agreeable, and for that cause the palace was refused! And this, too, when there are complaints made, in parts of the case, that the residence of

her majesty is not with befitting society, is not amongst her natural friends, is not where it might have been expected!

My lords, again: it was not an immaterial fact in our view of the case, indeed in any and every view of the case, that some information should be given, that some evidence at least should be adduced, with respect to the conduct and character of Bergami, while in the service of general Pino, that being on your lordships minutes, as the place and the service in which Bergami was, prior to his becoming one of the suite of her majesty. An application was therefore early made to general Pino to appear. Upon the application being made, he also, in his turn, I believe, had some communication with the Austrian government, in whose service he now is. Upon that communication being made, an intimation was given to him, that if he came to England, it must not be in his uniform. That seemed to be an odd sort of intimation to the gallant officer; and, he therefore accordingly inquired, whether, under some mental reservations, it was intended to observe to him, that he would lose his commission if he came. No answer was given to that question; and general Pino has not come and will not come to England.

Now, my lords, is it without cause that we state, on behalf of her majesty the Queen, that all the evidence on both sides (for both parties, as the solicitor-general had wisely observed, would be produced) is not forthcoming? Is it without cause, that we state to your lordships, that a rigorous demand was made for every witness that could be produced on the other side, while the greatest difficulties are thrown in the way of her majesty in her endeavours to obtain evidence for her defence? Do not these facts come powerfully in aid of those general observations which have been made, on the manner in which the case before your lordships has been got up? Do they not furnish a powerful argument in support of the accused party. My lords, I trust your lordships will be of that opinion. But the matter does not rest merely on these particular cases, which, since I had the honour of addressing your lordships, certainly have been brought under my notice more particularly. There are other persons—there are some physicians, I understand, and lawyers (who, I dare say, are likely enough to mind the powers that be very much) who will not come—who are afraid of the Austrian government. Instances of this kind occur. Persons whom we may want, and with respect to whom, we cannot tell till we have them here, whether we shall want them or not, are not forthcoming, from the same interference of either our high or low allies.

My lords; I thought it necessary, although it was somewhat out of my intended course, to commence with making this statement, in order, so far as I am able, to make it auxiliary and subsidiary to that most triumphant and powerful statement of my learned friend—and to that most laborious argument—if argument it is to be called—which, after him, at a great expense of your lordships time, I took leave to address to this House yesterday, in conformity with the same view of the subject, and following up the same principle.

My lords; having done this, before I come to make a few statements, which shall be in the shape of an appendix, and are meant so to be, to the case in its more general description, as it has already been made, your lordships will grant me the indulgence of one or two, and they shall be extremely short, general remarks upon the case as it stands. My lords, if, as the adverse supposition is, this were a case of open, undisguised, notorious adultery—and because open, undisguised and notorious, therefore derogatory to the dignity of the Crown, and the credit of the government of this kingdom, and to the kingdom itself—may I be permitted to ask how it could be possible that the thing should be so long in being proved? Usually speaking, facts admit of short proof, in proportion to their notoriety. If a man should assassinate another at mid-day at Charing-Cross, I think the probabilities are that he would not be without a witness against him; and it is the circumstance of the thing being done at midnight, usually in secret, in privacy, in solitude, that renders it a case of laborious and of long inquiry. How does it happen, if this was really, as the preamble of the Bill assumes, a notorious and profligate and open case—how is it, that the adverse party should be driven to successful, though, according to the evidence, unpaid speculations, through apochryphal and doubtfully existing key-holes? Why has some place of confinement been defrauded of the presence of Cuchi, the witness from Trieste, as to whom I should surmise, from his ap-

pearance, that he was at the time, paying some forfeit, making some remuneration to the offended justice of his country, and had been spared for a season, in order to degrade the cause?—I can only say I surmise so from his appearance; and in that I may be mistaken. At present I am not on his evidence, which, when I advert to more particularly, and the case he comes to prove, I will show he is entitled to some dungeon now, and shall not be long without one—at least if punishment for perjury can have that effect.

My lords, again—if, as the case is proved—*proved* I ought not to say, but assumed—if, as the case is assumed, the present was an open and undisguised case of adultery, whence is it, I pray, that, with the single exception of Demont in that very memorable addition to her testimony—the third edition, with various additions it ought to be called—whence is it, that with that single exception, there is not a tittle of proof before your lordships of that species of evidence,—I allude only generally, with reference to the state of the bed-linen, which, in nine cases out of ten obtains in corresponding trials to the present, if I may so call the actions for criminal conversation, in which proof is almost not only always given, but almost never not given, where the parties go to bed—how happens it, I say, that there is an absolute blank and silence as to all that part of the case, and that (permit me to remind you) when they are in possession of the chamber-maid Priesing, who was in the service of the Queen for the first two months of this supposed perverse connexion, and because perverse, probably pursued with a degree of inflammation, which that passion, in that oblique direction, is often supposed to have, and I believe often has, more than a regular passion? I say, she was present at the heyday of this passion; and not only is there no such proof from her, but that witness is not called—and not only not called, but is brought over to this country, is now in this country, has been in Cotton Garden, that prolific Garden of Innocence, which has been exempt from crime, or rather from the inoculation of crime, according to my learned friend. There she has been producible—there she has been brought—and having been in Cotton Garden, or whatever other name it is called, they dare not call her. My lords, whence, allow me to ask again, whence all this delay? Why is it—I beg the House to consider why is it—that in a case which bears an immediate analogy to high treason—which, according to the opinion of the first authority in the law as a text-writer, is high treason—which, according to every opinion, would have been high treason, but for the incidental circumstance of the nation of one of the parties—why is it, that a delay has taken place in bringing forward all these charges, until a time shall have elapsed which, if it had been a charge of high treason, would have formed a ground of acquittal at once; for by the statute of William, your lordship well knows, and every noble lord who hears me is apprised, that if three years had been allowed to elapse, the provisions of that statute would have interposed, and a prosecution of that description would have been prevented. Why then, I ask again, if these facts really existed, have they been allowed to slumber so long? Is it not a daily remark, that it is an object—that it is a point—that it is a subject of just imputation against any prosecution, if it has been permitted to sleep? Can it be pretended, can it be said (and I wish to touch this part of the subject tenderly, and will only do it, so far as it is necessary for the explanation of what I am stating) can it be pretended, that it was to this nation immaterial and to the honour of the kingdom immaterial, what the consort of the first executive magistrate might be doing abroad—I do not say actually the king, but the representative of the royal power, the then executive first magistrate of this realm—during the whole of these last three years which have been untouched by the evidence? Can it be pretended, I say, that it was immaterial to the honour and dignity of this empire, what was done or not done by the consort of that eminent and distinguished personage, only not then in possession of the throne, and only not then actually wearing the Crown? My lords, can it be said—is it possible that it should be said? Where is the excuse, then, for the delay of the production of the proof? My lords, will it not, by and by, be surmised—if, indeed, it has not already been abundantly surmised—that it was not what was done in Italy by the Queen, but that it was her coming to England, that gave rise to the charges in the preamble of this bill; and that it would be well, if instead of this somewhat tedious and verbose description of these proceedings, which are supposed to be derogatory to the interests and to

the dignity of this country and of the Crown, the recital ran thus—"Whereas her majesty the Queen of England hath recently come to England," I really do not affect to say how the preamble should be. I never drew up a Queen's Bill in my life—there are very few of them—no precedent since the time of Henry the eighth; and therefore my learned friends will excuse me for not knowing. But if there is no good reason in law—none in sense—none in decency—none in propriety—for withholding this charge for three years, when it was supposed, that the matter of accusation existed, when inquiry was going on and people were on the watch—when baron Ompteda was at Rome, ambassador from Hanover, for the first time—if, under these circumstances all the points of crimination were known, but not inquired into, it does, my lords, I humbly submit, operate peremptorily in favour of that case of which I am an humble advocate. The single fact, that with a knowledge of all the alleged criminality, the charge had been suffered to sleep for three long years, must make a deep impression on every unbiassed mind. It is for the opposite party to explain the cause of this extraordinary delay. It is not for us to account for it; and if there be good grounds for that surmise to which I have just alluded—if the conduct pursued by our opponents makes it, not a matter of hazardous suspicion, but one of well-grounded opinion—then, I say, that that interpretation also goes mainly to cast in a shade the evidence which they have adduced before your lordships.

My lords; I have already mentioned the single exception that was contained in the evidence upon the subject of stains. That exception is to be found in the testimony of Demont. I promised yesterday, that I would take some notice of that variation, in the shape of amendment, in the evidence of Demont; and accordingly now, my lords, I must trouble you with part of her examination in this case, that you may see how she improved gradually. The first will be found in page 246 of the evidence, in the beginning of her examination: but the part I am particularly calling your lordships' attention to will be found at page 250—"What observations did you make upon the large bed?" "I observed it had been occupied." —"Can you inform their lordships more particularly of the state of it?"—particularly pointing the attention of the witness to some description of some fact or other, and not to that general description of occupation, which means any thing, one, or two, or a dozen—"Can you inform their lordships more particularly of the state of it?" I cannot."—"Was it much or a little deranged or tumbled?" "Not much."* So it ends. Then, before she came to the stains, she was again examined by the solicitor-general, who put this which was somewhat of a leading question to her. He did not ask about tumbling, nor about derangement, nor about any thing general that ought to have led to the answer from the witness, if the fact existed—the solicitor-general, to get it out better, says at p. 252,† "State what was the appearance on the second night, of the great bed, whether it had the appearance of one person having slept in it or more than one person?"—leading therefore to that fact—"More than one person."—"How was that bed on the subsequent nights; had it the appearance of one person having slept in it, or more than one person?" "I have always seen the same thing." Then again, upon an examination by a noble lord, she is asked, (this is at page 362), "State distinctly what was the state of that bed?" to which she answers, "The bed-cover was extremely pressed down in the middle, and there were things upon the bed which I had never seen before."—"What were those things?" "Large stains."‡ So that the third edition of her evidence comes out, not only with corrections, but with large additions—each time there is an amendment and improvement in the strength of it; and it is not till the third edition comes out, that the case is absolute and complete. Now, my lords, when we are upon the subject of a witness mending and strengthening her evidence, I do not think a much more signal proof could be given than that which I have given. In the first instance, Demont proves nothing respecting the marks. She tries again and comes nearer to the wished-for point; and at last, after a little consideration, she makes her evidence quite perfect. Is it not extraordinary, my lords, when her attention was immediately and directly called to the state of the bed, when she was first examined, that

* See Vol. 2, p. 1114.
† See Vol. 2, p. 1116.
‡ See Vol. 2, p. 1211.

she recollects nothing whatever about stains? My lords, there is another of the same kind, in the evidence of Demont, and I will make it quite general and not trouble you with the detail. On the first occasion, when she spoke of Bergami being in the passage leading to the Queen's bed-room naked, she said nothing whatever of any door, still less that of the princess's bed-room being locked. The whole subject passed away; but she was examined afterwards upon the same point, and then, and not till then, she comes out with that important fact, that the door was locked the moment Bergami got in.

Now, my lords, not to weary your lordships more by general remarks, and having mentioned these only as incidental points, and confirmatory by example of the topic that was taken both yesterday and the day before, partly by my learned friend and partly by myself, of the amendment of their testimony by the witnesses, permit me to call your lordships attention to some of the detached facts, or rather, if I may so say, acts, on which the adverse case depends, and to shortly state in what manner, and by what proof, we propose and hope to meet those cases, or some of them. And, my lords, surely the preliminary facts which I have stated to your lordships will at once account for its being extremely probable, that we may not have all that proof in favour of the Queen, which we have reason to believe and to know now exists. If power be exercised to bring witnesses against her, and power be exercised to stop them from coming for her, hard, indeed, are the terms on which her majesty has to contend with this Case. My lords; in addition to this, I am certainly in no condition to state the evidence on the part of her majesty to meet those charges, with that detail, with that minuteness, which it was to be expected should arise from the well-prepared, well-digested, well-concerted brief of my learned friend, the Attorney-general. Surely, from the sundry examinations that were made abroad and at home, it might be expected, that they at least knew with perfect certainty what their witnesses were to prove. Two witnesses, indeed, in order to "make assurance doubly sure," had not only been examined; but, contrary to all precedent and example, sworn.

My lords; in addition to that, the Evidence for her majesty the Queen is not arranged and collected; but in the course of arrival and collection — and, from the nature of the case and of the time, of necessity so. My lords, I am not ignorant that possibly, nay, perhaps I should say probably, if the Queen had been pleased to ask it, a longer time, a longer period, might have been allowed. But I will state to your lordships why her majesty could not allow that delay to take place. My lords, her majesty has patience —it has been tried—she has had abundant reasons to exercise it. Her majesty has fortitude — her life has made it necessary for her to exercise that virtue frequently. But she has not patience — she has not fortitude — to permit this Case to slumber upon that judicial, but most unnatural and unphilosophical equilibrium, which consisted of this — of all the Evidence, and two speeches into the bargain, being in one balance, and not a fragment of a sentence, or a breath of the counsel for the Queen, or a single remark, in the other. Therefore, my lords, her majesty would not allow the proceedings to stay — therefore her patience and fortitude, great as they are, were not sufficient to sustain the trial of a hearing all on one side — of the bane, but no antidote, to go out with it: and I know not whether there is any body who has fortitude enough to blame the Queen for that conduct. But that is the reason, my lords, that it is not to be expected from me, that I should give your lordships the same regular, systematic series and detail, on her majesty's part, which an examination of three years does, or at least ought to have given the other side, who choose their time, who have their opportunities— who have opportunities, time, influence, every possible circumstance that is requisite for adequate preparation.

But, my lords, notwithstanding that disadvantage, I will now come — and I will do it, as I have stated, by means of reference — to particular branches of the case. I can do it more shortly — and I will endeavour to do it as shortly as possible — by allusion to particular branches of the case. I will begin, first of all, by reminding your lordships what the adverse case is; and then what, in the shape of contradiction to that case, we hope and believe we shall prove. And first in order I mean to take, because I believe my learned friend did not (indeed, he himself informs me he did not) amply

and largely discuss it — the case of the polacre — a case which my learned friend passed over, in consequence of an arrangement which had been made, that he should only take a general view of the case, and then come to examine the particular credit of the witnesses; and he accidentally took, instead of this case, which as far as our case goes we should have chosen as the very fittest, the most pleasing for commentary — he accidentally took two or three others. But, however, my lords, I will come to it: for there is no part of the Case that I am more anxious to grapple with, that I am more happy to meet than this. If any one supposes it has been industriously omitted by my learned friend, the contrary will soon appear. And upon that subject no part of the examination most assuredly took up more time, none was more immediately prepared and observed upon, than the case of the bath; and that, your lordships know, is proved by Majoochi, at page 26 of the Evidence.* He made the bath to be taken in the cabin of the Queen, and Bergami and the Queen to be in the inside, and he on the outside. Now, Demont's evidence does not confirm Majoochi in this statement; because she, in one instance, speaks according to her memory of the bath being in the dining-room; in the other, she knows nothing. So that, as far as her evidence goes, she is not only not confirmatory of Majoochi, but in point of fact, as the fact was so material, her not confirming him in that point is virtually, as I submit, a contradiction. But, my lords, it will not rest there, because this bath was in point of fact, a tub, which the princess used, having nothing better on ship-board for that purpose. The cabin of her majesty was small; and I will prove to the satisfaction of your lordships, that, so far from that bath having possibly been taken in the cabin, according to the evidence of Majoochi, with the bed in it and the furniture that was in that cabin, it was impossible for the tub to have been there at all. Now, if we show a physical impossibility upon the face of that fact, I do not know well how we can have better contradiction than the laws of nature, in opposition to such a witness as Majoochi. I think that may do tolerably well for a witness of his description; and it is a part of his story, that goes to the whole of his case. The whole indecency consists in the Queen and Bergami being inside; and Majoochi places himself outside, as if he were a watchman, in order to see what is going on. So that it is not a part of the case, that can be split into details: it is true or false in the whole: if that tub could not be admitted, it is a false and malicious traduction of the Queen, like the other cases to which we have alluded.

Now, my lords, again. One of the witnesses, Paturzo, it is at page 95, says, that when Bergami had changed his sleeping-room, or rather his sleeping-cabin, it was quite possible for people to see from the Queen's bed to Bergami's bed, as they were lying in bed.* To that we shall, I think, give peremptory contradiction, and show, that the situation of the Queen's bed and Bergami's bed, when Bergami's bed was changed, rendered that fact impossible. There again, then, we have a contradiction. My lords; again mention is made of Bergami's changing his bed, and as usual, of course, for the purpose of making an imputation upon the Queen, and in furtherance of the main object of the whole of the evidence that has been given. Now, my lords, mark how a plain fact puts down that inference. At Tunis a surgeon was taken on board. There was no room for him, according to the arrangement which previously existed. In order, therefore, to accommodate him, and for that express purpose, and not at all under the Queen's direction, by her arrangement, or management, or in any degree, interference — for the single purpose of the necessity of the surgeon, that arrangement and change was made. So that that circumstance of suspicion rests pretty much like the rest, in a malignant disposition to misrepresent every thing done by the Queen; but it falls down before the fact.

Another circumstance which has been strongly urged, and is apparently much relied on is, the sleeping in the tent. That fact, not according to the evidence now before your lordships, but according to the evidence that will be given, was within half a yard of the steersman, who was constantly at that spot. Why was not he called on the other side, who, if Majoochi spoke the truth (which I fancy the understanding of a vessel will almost re-

* See Vol. 2, p. 822.

* See Vol. 2, p. 891.

fute of itself), that he heard a noise, to which I need do no more than allude, the meaning is sufficiently obvious—if he heard it when he was sleeping below or being in a place where he ought to sleep —he did not say he was asleep at the time, he was not so stupid as that—but if he heard this noise, must not the steersman, who was within half a yard of the tent have heard something of it too? We will prove that the crew were habitually and continually, day and night, passing close by that tent. My lords, we will prove, that an officer who had the charge of the vessel, and was upon the deck in consequence of that charge, was frequently in the habit of receiving directions from the Queen, or at all events having questions put to him by her, as to the progress of the vessel and the state of the weather, and that he upon those occasions, without any fear or apprehension, or any kind of notice or warning, used to take up a portion of the tent, and communicate to her the state of the weather and the progress of the voyage, at the time when the Queen was not, as I suppose will be said, in bed, but reposing under the awning with her clothes on.

My lords; in addition to this, I believe we shall prove—you will understand why it is that with any deduction or caution, I make any of these statements; it is impossible for me, I repeat it, to be as well framed and tutored and prepared in the very detail of all the evidence as they ought to be on the other side—I believe we shall prove, that the communication between the deck and the hold of the vessel and the dining-room below was constantly open. I believe we shall also prove this—that there were several nights, upon the voyage, in which Bergami did not repose under that tent; but that the Queen herself in no instance no where, wherever she went—particularly after some untoward accident that happened in Italy, and some attempts that were made of surprise there, according to the best of her judgment by some persons, no matter whom—never reposed without some person being there to guard and protect her. But, my lords, I fancy the nature of the evidence, as to this fact, will show, that when naked and sleeping and in bed, according to the construction of the other side, that person was at the door or in an adjoining room—in the other event, under the same tent, or in the same room in some instances (I know not how that may turn out), when the Queen was completely dressed, and reposing in her clothes. But, suppose any part of this be proved—suppose any portion or fraction of it be proved—what becomes of the testimony of Majoochi and Demont, either as to the fact of the bath, or the sleeping under the tent?—not to mention that with which I shall not weary your lordships, but only beg you to bear in mind—why have they not called, of the twenty-two sailors on board, some of these people—and, above all, that steersman at the helm, within half-a-yard of the tent, to state what actually was the case, in confirmation of Majoochi, a discarded servant, who wanted to be taken back and might not be taken back, but was refused, and the testimony of the discarded and ungrateful and malignant female witness?

Now, my lords, I will come to the case of Naples—the night, the very night, the night by the supposition, the night which from the agitation and alarm, which from the circumstance which the evidence details, no man can doubt is the imputed night of the commencement of this adulterous intercourse, not in some respects but in all respects the operative night, the fatal night, in the transaction there—The evidence of Demont is, that the Queen returned early from the Opera much agitated — that she may safely swear; there had been only a description of what another person appears to do or suffer. She says that the Queen was agitated, and the person who is described to be agitated cannot be called. There Demont is quite safe. She says the princess sent her away earlier than usual; and then the supposition is, what I need not further describe—that that was the night when the adultery commenced, so opened by the attorney-general, so described by the witnesses, so summed-up by the solicitor-general. My lords, fortunately for the ends of justice and for the Queen, that was a remarkable night. It was the night that the king of Naples and his court were at the Opera witnessing the spectacle. For the Queen, accordingly, a special state box was prepared. She was there numerously attended by her appropriate attendants, who well remember, from the length of time that they were obliged to stand, which created no slight degree of fatigue (for the amusement of the Opera did not compensate for the severity of the exercise of standing), that they were worn out by the ceremony of that

night; and they full well remember, that they were obliged to stop in attendance upon the Queen until the whole was over, and that was not earlier than one o'clock or thereabouts of the night, or strictly speaking of the morning, of that generally described Opera night. So much for the earliness of her majesty's return! More than that, according to the testimony of Demont, the Queen had no bed to sleep in that night, or rather had slept in none; nor, indeed, does she give any bed for her to sleep in, during the whole of the stay at Naples—the small bed was not slept in, the large bed was not accommodated with linen. Where did she sleep? Demont must come back again and tell your lordships that. We, however, shall supply Demont with that proof, and shall prove that her majesty had a bed on that night. For not only was this night remarkable to the attendants of the Queen, by their being detained in this state-box by the Neapolitan court, which caused all that parade, but it so happened, that there was a violent storm of wind that night, which blew open the casement of the Queen's room; and I will call before your lordships a witness who was called by the Queen, in consequence of her being disturbed by the beating of the wind and the window being thrown open, in order to shut that window; and the Queen was then in her bed. Now, what are we to say has become of the notable case of adultery committed on this fatal night, when I know not what stars shone conscious of this agitation, and delicate virgin feelings, and I know not what they have thrown into the case, to have us believe that this was the commencement of the intercourse? My lords, I shall not waste your lordships time by commenting upon this part of the case: it is a peremptory contradiction.

Well, my lords, again, in order to make room, by way of preface, for the injurious inference against the Queen, your lordships may remember, that it was opened by my learned friend the attorney-general, that William Austin, a boy of six or seven years of age, had been, just at that time, just to meet it, just to make this night the night and none other, withdrawn from the apartment of the Queen, as it is represented, for that and for no other purpose. What will your lordships say to that charitable, that honest interpretation of the fact, if I prove to your lordships, that that boy, being then nearly thirteen years of age, and in the climate of Italy, it was suggested by another to the Queen long before that night, that it was no longer proper, that he should sleep in the room with the Queen, and that that change had taken place for some time previous, whenever the necessity of the case did not compel the contrary. My lords, that fact will be proved; and then, so much may remain of the six years infancy, so much may remain of this preparation for the night—the adultery night—the very night and no other—as, consistently with the fact, remains for the injurious interpretation which is put upon the conduct of the Queen.

My lords, again, upon another point. It really does not deserve it hardly; but however, my lords, we must not leave the matter short, where, by extraordinary circumstances, we are enabled to meet detached parts of a case of which we have been, until the witness comes here, in such utter and total ignorance—again, upon that imputed indecency of dress in the celebration of the trifling fête, in commemoration of the victories of Murat, when the Genius of History was the part sustained by the Queen, and there were two parts sustained by two other ladies, a duchess and a countess of the Neapolitan court. My lords, it will be proved, that that dress, so far from having been, as Demont stated to my learned friend the attorney-general, when he opened it—so far from being indecent, that in order to meet that appropriate character, it covered the princess up to the chin, and almost the entire of her arms. My lords, the nature of the dress is well recollected, and I dare say, your lordships know tolerably well, in what state the Genius of History is usually represented—"Sober, stedfast, and demure"—pretty much as Milton describes one of his imaginary personages. And why should it be otherwise? History ought not to have a very fanciful, or flighty, or imaginary dress; not having any thing to do with the laughter-loving goddess. And accordingly, not only from the nature of the dress, but from the actual recollection and the memory of the fact, a contradiction to that also will be peremptorily given, by witnesses who well remember the circumstance.

Well, my lords, I will take another instance. Your lordships will now call to your recollection the circumstance given in evidence as having taken place at Carls-

ruhe. Even as that stands at present—even with the inference that takes place there for us and against us—even with the subtraction of the best witness which we desire, and his being compelled not to come in obedience to her majesty's solicitation and his own express wish on the subject—still, my lords, is the cause of truth not without a witness at that place. At page 183 of the Minutes,* the evidence of Kress gives that scene in Bergami's room between the hours of seven and eight o'clock in the evening. Now, my lords, we are in a condition to prove the dining, including Bergami, every day, during the residence at that place; and there was only one day upon which it possibly could have happened, with reference to the time, when, as it will be proved, Bergami dining, I believe, with the grand duke, in company with her majesty and with various others of her suite, was taken unwell early in the afternoon, and went home to the inn. Now, I shall be in a condition to prove, by witnesses who recollect the fact, that there was some music afterwards, in which the grand duchess took a part—some singing—and I will call a witness before your lordships, who was present at that transaction and remembers it full well, from his joining and taking a part in that music with the duchess. The Queen was there, and I will prove to your lordships, that the Queen remained there, for at least two hours after the departure of Bergami, and I will show that upon the departure of the Queen from the entertainment of the grand duke and her return to the inn, Bergami was up and dressed; having recovered from some trifling indisposition—I believe a head-ache—covering, therefore, the time which Kress is pleased to make mention of, and to which she is pleased to depose, in the manner I have described, and amounting to the confutation of it by the appearance of Bergami up and dressed when the Queen returned from the entertainment of the grand duke. My lords, I shall prove that by a person who accompanied Bergami home in consequence of his illness, and who will prove the state of his dress, upon the arrival of the Queen at the inn, in the way that I have just now stated. Nor will it rest on one witness only; but there will be two witnesses to that fact: but I trust that one witness speaking to that point, with a correct recollection of the facts, and giving reasons for it, would be sufficient, in a case of this description: above all, when I state to your lordships, that there is reason to believe, that we shall be in a condition to give evidence, with respect to the conduct of this woman Kress, that would render her not fit to be believed—I will not say, to deprive a Queen of her pre-eminent dignities — but a sparrow of a feather of his wing — if we are not deceived as to our own instructions. But whether it be by contradiction to facts, or whether it be contradiction arising from herself, either is enough for our purpose —both would be accumulative.

Now, my lords, I will take the instance of Scharnitz, at page 301 of the Minutes. And there again, in the Opening of my learned friend the attorney-general, in the Summing-up of my learned friend the solicitor-general, in the examination of Demont originally—though she fell off from it in her cross-examination—proofs of an adulterous intercourse have been asserted, from the intercourse on this occasion of the bed-rooms, and in other respects—by which "other respects" was meant, the eating and drinking wherewithal they think proper to decorate the case now and then, when more material evidence is wanted. Now, we will prove, as it is admitted, that Bergami had been to Inspruck about a passport—we will prove by a witness who accompanied him, the time of his return—we will prove that her majesty was indeed in bed at that time, but that she had all the clothing on that she had on during the day, and that there was good reason for it, seeing that there was a severe frost, and the wretched inn was almost blocked up with snow—we will prove that, from the time of the return of Bergami with the witness who accompanied him, and which was about two o'clock in the morning, both the witness and Bergami were busily engaged in preparation for the departure of the suite—that the witness to whom I allude was more than once in the bed-room of the Queen, communicating the state of the preparations—and by the engagement of Bergami, namely, his being occupied in preparing for the departure of himself and the suite, and by the communication the witness had with the Queen, that injurious inference, that imputation without foundation, that shadow of a fact, when it comes to be examined, will fall before the testimony which we

* See Vol. 2, p. 970.

expect and verily believe, we shall be able to furnish to your lordships. The person to whom I have alluded is the best witness to the transaction, from the circumstance of his having been engaged in the preparation for their departure; but, in confirmation of this witness, we shall, I believe, be able to produce no less than three others, who all speak to the same facts, in refutation of the adverse imputation.

Now, my lords, I will take that case which, to be sure, amongst the rest, it is lamentable should go forth to the people of this country. But however, the abominations I allude to are spoken to in page 438 of the printed Evidence by Mr. Sacchi, or Sacchini, by whatever name he delights in being called—I allude to the memorable journey to Sinigaglia. Now, my lords, I will proceed without troubling you with the detail—I am only alluding to it in order to draw the attention of your lordships to the contradiction. He says, he drew the curtains of the carriage and saw the indecencies which he describes; and, to make assurance doubly sure I suppose—and thinking one instance not strong enough, there was nothing like having more of them—two or three times he saw those indecencies.* Now, my lords, in the first place, I will prove, that the Queen travelled then in a landau, that there were no curtains to be drawn belonging to that carriage. I will prove, in addition, that upon that journey, Sacchi was not the courier whose office therefore it was, to do that which he malignantly represents himself to have done. There was in that carriage a spring blind, but no curtains to be drawn, of which the witness gave an account in his evidence. Another person, as it is well remembered, and will be distinctly proved by many witnesses, was the courier upon that particular journey; and the reason for remembering it will be given to your lordships; and that man also will himself, I believe, be presented to your lordships, to prove the fact that he was the courier upon that journey, and not Sacchi. I will not waste your time, my lords, in commenting upon this fact—if Sacchi was not there, he did not see it—if there were no curtains to the carriage, he did not draw those curtains. My lords, I shall not take up the time of your lordships unnecessarily, by doing more than pointing the evidence. My lords, I shall be in a condition to corroborate, to confirm, what I have stated, by the presence of the person who was in the carriage upon that very journey, and who will negative, as far as it is possible to do so, any of those indecencies to which I only allude; and who will also corroborate and confirm the statement which I have just made, as to the other particulars that are in contradiction of the foul imputations of Sacchi.

Now, my lords, again: your lordships may remember that Demont, in page 295 of her evidence,* speaks of a bed-room being changed in the Villa d'Este—of course all for the same purpose—all in furtherance of an adulterous intercourse. Nothing, in fact, could be done or suffered by her majesty the Queen, which was not twisted into the same construction. If the parties eat together, it is to perpetuate the continuance of it: if her majesty has a smoaky bed-room, and changes it, it is for the perpetration of it. Nothing can be done, nothing suffered, nothing omitted, that has not the same injurious interpretation. Now, my lords, upon the subject of the change of that bed-room, it will be in proof before your lordships, that the bed-room used by her majesty the Queen, during the winter season, troubled her excessively with smoak, and that in consequence of that, it was found necessary, during that part of the year, to provide another sleeping apartment for the Queen; and that was done accordingly, and that apartment into which she changed to avoid the inconveniences of the smoak was at the very utmost extremity of the house from the sitting apartments which her majesty usually occupied; the room that was infested with the smoak being close to those sitting apartments. The result of which was, that her majesty, in going from that substituted apartment to the sitting-room had to make the tour of the whole house; and in order to avoid that inconvenience, not a new door was made (for this was the gloss which was put upon the circumstance by the other side) but an old door was renewed, in order to make (which it did) a direct communication with the sitting apartments of the dwelling-house, and making an approach to them, I think, according to my recollection, ten times nearer than it would be, by the circuitous rout to which I have

* See Vol. 2, p. 1274.

* See Vol. 2, p. 1146.

alluded. Now, that, my lords, is the plain history of the change of the apartments, whence, of course, an inference is made directly, not only by the fact, but by the interpretation and commentary upon it, that it was all in furtherance of the imputed purposes of the preamble of the bill.

Now, my lords, there is another fact—the bathing in the Brescia, detailed in the evidence of Antonio Bianchi, to be found at page 398 of the printed minutes. Your lordships may remember, that it was a very considerable time before any thing could be made of this witness. He neither could make any thing, in his answers, of where the bathing* was to be—whether it was in a mill-dam, or in the water, or on dry land, or in what other situation. He was, indeed, in main confusion throughout the whole of his examination; and well enough he might. Now, the scene of this bathing was laid in the Brescia; and I understand it will be distinctly proved, that the Brescia is altogether a mountain stream; that is to say, that in reasonably dry weather it is a stream without any water at all; and in the rainy weather, it is so swollen as to render any bathing in it pretty much like bathing, as I understand it, at London-bridge at low water—when the water tumbles from the mountains, it is pretty much like bathing under London-bridge; when dry weather, it is pretty much the same as bathing upon the bridge itself. A suggestion is made by my learned friend, that this is not a part of the case with which I ought to trouble your lordships. I mention the fact, and mention it very shortly ;thinking that the fact, if true, was not by any means worth our while to have taken up any portion of your time in noticing it in any respect. However, as it forms a part of the matter of the preamble of the bill, out of condescension to those important and significant words, I have chosen just to open this part of the evidence.

Then, my lords, there is another thing to be noticed, and after that, I really do not know whether I shall trouble your lordships with any other instances. There may be other particulars, in which we shall be enabled to contradict the statement as it stands. Your lordships will perceive that I have all along taken facts, not constructions—that I have looked at the acts charged, not at detailed parts of them; that I have not selected minute portions, nor particular bearings; but that I have treated the facts and circumstances charged according as they were made out against us. This is a matter which I am induced the more particularly to mention, because this was one of those particular parts of the evidence, upon which my learned friend the solicitor-general had ventured, in forgetfulness of that wise and often-proved liberality which he displayed in the first sentence of the speech with which he indulged us—and, in order to meet him, that challenge has been accepted. In page 223 of the Minutes, in the evidence of the mason, Raggazoni, your lordships will find that antediluvian scene of Adam and Eve,* which your lordships may also remember, which I need not do more than allude to, in order that your lordships may comprehend what it is that I am upon. At that page you will find this honest person describes himself to have been working in a grotto, and upon a cornice in a round room; and very lucky it is that he has happened to condescend to give us these particulars. Now, the statues of our first parents had two positions. At one time they were in the house; but this applies of course to the garden. If he had been speaking of their position when in the house, and that he was working at the cornice in the round room, this honest man would have represented himself to be in a place for seeing what passed, with regard to the statues, just as much as I am in a situation to see something now in St. Paul's cathedral. But Bergami and the princess were in the grotto, or in a portion of that which went by that general name, and there was a round room in that grotto, and there was a room adjoining, both of which had a cornice, and none other: so that if Honesty was at work at all upon any cornice, it must have been upon one or other of those two. Now, when the figures of Adam and Eve stood in the grotto, they stood just as much out of the sight of the worthy person, as they would have done upon the supposition that I have just now mentioned. My lords, when I observe to your lordships that this will be shown in proof, it does seem a little odd, that we should have been so challenged by my learned friends, even if my learned friends

* See Vol. 2, p. 1244.

* See Vol. 2, p. 1093.

supposed, as they might fairly suppose, that this man would give no calamitous evidence which we might get hold of. It did seem a safe challenge: we accept it; and we will prove to your lordships, that, according to the laws of optics—or rather the ends of nature—Raggazoni could not have seen that which he has deposed to have seen, and that he has been guilty of a wilful, a malignant, a foul fiction, on his oath, for the purpose of traducing the Queen of these realms.

Now, my lords, is it necessary—am I not wasting time when I say, that if any portion of this evidence be satisfactorily disproved, it being one of the ingredients of their whole case—and a case that is particularly circumstanced with reference to its cohesion and integrity, for that it ought to be entire more than cases in general, seeing that the witnesses have been particularly treated, that there has been particular examination, that they have not been sent here except with the imprimatur of Milan (except they had the currency of the Mint there, they have not been sent at all), and upon their arrival when sent they have been kept in that peculiar keeping which belongs to this case, and to no other of which I ever heard; having been sent over from Italy, they have been caged and cooped-up all together in a most unusual way, as if there was an official impression of some kind set upon their faces or their backs, for I know not which—if any part, therefore, of this evidence be impeached, I say it is an imputation of the whole, more than is general in ordinary cases; that it is a sweeping off of whole scenes of the transaction; that it is a cutting off, not of straggling points, but of whole propositions of their case; that it is not dealing with the fringes and the outside, but that it comes home to the substance, the *succus et sanguis* of the case of the adverse party, if case they have any at all. And, my lords, with respect to the contradiction to each of the witnesses, if you find him in a part of his testimony falsely deposing to a fact, what man can insure that he speaks truth as to the rest? A story and a narrative may be made up, and usually is made up, of the testimony of many persons: one person may go to one part, another to another part, another to a third, another to a fourth part; and the evidence of the first may be cut away, and the part of the second, third, and fourth, being sustained by credible witnesses, may afterwards remain unshaken. But the veracity of a man is an entire thing; and if you shake him in any one part, who is the person that can come forward and say, "Hitherto you taint him with fiction; but I will draw the line—on one side is fiction, malignity, falsehood, on the other side it is soundness and integrity, and that which we can trust." My lords, in human affairs that is impossible—no man can do it—there is no such line to be drawn—the veracity of a man, if impeached in one part of his testimony, is impeached in the whole. You cannot separate them—you cannot distinguish them. It is the shaking of that man's testimony completely and entirely from first to last. According to this test your lordships must consider his evidence—if he is shaken in that manner, he is shaken altogether. There is no medium, upon this subject, in human affairs. There is none in judicial proceedings. Above all, your lordships should bear in mind, that of which you have already been so satisfactorily reminded, that it almost always happens, and must happen, that any fiction which is meant to operate to the injury of a person, is not solely an invention, but is a grafting upon facts which may exist, upon parts of a story that are true, those ingredients and falsehoods whence the malignity of the whole arises.

My lords; this is true generally. And is there in the present case any thing, from whence to infer, that there was a ready method of building upon a substratum of fact, a superstructure of all this malicious falsehood with which her majesty is assailed? Your lordships doubtless bear in mind, that the scheming chambermaid who has been examined at your bar kept a journal of sundry incidents occurring during her residence and connexion with the Queen. This record was kept during her moments of veracity; and in it your lordships have seen how (and very justly) she had loaded, extolled, and eulogised the gracious mistress, whom she has since perfidiously calumniated and betrayed. My lords, the facts there found furnished an easy foundation, a very proper foundation, for this superstructure of falsehood, upon which the whole might be built. There might my learned friend, the attorney-general, find all the assistance that he stood in need of upon some points—all the dates of all their journeys—of all their transactions

that were true. Then came this refugee upon the Queen—then came this woman who, for reasons best known to herself, chose to turn against the mistress who had protected and cherished her—and, by the assistance of another equally ill-disposed person, though perhaps of less ingenuity, engrafted upon these undoubted facts, facts of equal falsehood, and in the highest degree prejudicial to her majesty the Queen.

My lords; when I heard the adverse case torn in pieces, yesterday and the day before, by my hon. and learned friend, in such wise, that, to my mind—I am an advocate doubtless, and I thank God a zealous one in this cause, and therefore may not be quite fit to estimate inferences and conclusions—but when I heard my honourable friend, to my judgment, by the convincing and powerful arguments that he made use of, shake the adverse case to its foundation, I was almost disposed to cry out in the impassioned language of Cicero, "*O magna vis veritatis, quæ contra hominum ingenia, calliditatem, solertiam, contraque fictas omnium insidias, facile per se ipsam defendat!*". But, my lords, when I see, that, after the lapse of so much time, whereby the memory of persons might have failed them, the persons themselves might have been hurried away, and time have cast its mantle over many of the important occurrences—when I see an expectation, which was apparent, of so much being proved, as I have fairly and in the outline opened to you—then, my lords, do I hesitate to confide in that declaration, even though it proceeded from Cicero, and, with my learned friend, the Queen's attorney-general, I say, that we are bound to attribute it to the bounty of Providence, who does frequently, in the absence of human means, defend the innocent as it were with a shield, and whose gracious and ready help does most especially maintain and defend the desolate and the oppressed.

My lords; I cease to sum up the evidence on behalf of her majesty, by reminding your lordships of two witnesses from the quiver of my adversary. I call before your lordships for the Queen, the honourable officers of the King—I call on behalf of her majesty, captain Pechell and captain Briggs, the only two men of this nation (I mean no national reflection), the only two persons whom your lordships can, with the utmost confidence, with the most implicit reliance, beyond all shade and shadow of doubt, place your hands upon your hearts and say, "This is the evidence which we can implicitly believe." Captain Pechell, with the honourable candour of a gentleman and of an officer, not being entirely without some slight grounds—I do not mean of an important nature—some slight grounds of offence existing between himself and her majesty, speaks nothing against the Queen. The other honourable and gallant officer, captain Briggs, speaks decidedly for the Queen. Now, my lords, if the alleged attachment of her majesty to Bergami was, indeed, this violent, obstinate, and unsurmountable passion—if it was one that could not be concealed from the witnesses to the amount of twenty at a time—if it was one that must be gratified in the market place, or on ship-board—which was then in the height of its inflammation—could, I say, upon that supposition, if their case had been true—could nearly three weeks have passed on board the gallant officer's ship the Leviathan, and nothing of all this have transpired? My lords, the adverse imputation, and the supposition of the domineering passion under which the adverse counsel placed the Queen, and the absence of all proofs which such an occasion required, namely, proof decisive, all "strong as holy-writ",—such as would satisfy your lordships and the people of England, and such as might have been had, if they existed—speaks volumes of proof in favour of the Queen—speaks with the language of a trumpet before your lordships. My lords, what system is this? Are we not daily hearing, and hearing in the shape of lamentation and complaint, that there exists in this country, at this time, a turbulent and insubordinate spirit—and every now and then, "ever and anon," we hear of treasonable tempers amongst no small portion of the people? Do we not hear it said, and is it not rung in our ears, that "the laws are beheld with contempt in their enaction, with disgust in their execution?" Do we not, moreover, hear, almost in the language of the writer to whom I have just alluded—(who, by the way, applied this very description to the state of this country, now just half a century ago)—I mean, Mr. Burke, the same complaints which were then prevalent, that "the government stood in need rather of reformation than of support"? Do we not also hear now, as it was lamented then, that rank, and office, and title, and all the solemn

plausibilities of the world are fallen into disrespect? My lords, is this true, or is it not? If it be true, what are we now doing, my lords? Is the principle of incapacitation confined to either sex? My lords, what—I repeat it—are we now doing? I do not say, casting a legislative measure of doubtful import—I do not say, bringing forward a measure which may be injurious possibly, and greatly injurious, but which may also be greatly advantageous, and for which, therefore, some perils should be endured—but casting, I will call it nothing else, a lighted and burning fire-brand, of no other than an anti-monarchical tendency, into a magazine, as it is now described by continual lamentation and complaint, ripe for combustion and explosion of itself. My lords, is this to be carried on, and to pass through every stage—is this demoralizing and dethroning investigation to be pushed to the utmost extent, and that, too, upon such evidence as has been adduced at your lordships bar? My lords, it is not for me to answer these questions, I will push the subject no farther.

My lords; that your lordships, not I will say, acting in conformity to morality, but not disdaining the precedent of those wise judges to whom I before alluded, who looked to posterity, and who, it seems, were of the same mind with the universal people of that country—that your judgment, I say, may by these means, assuage heats, remove animosities, and possibly, peradventure, by great good fortune, even yet maintain the tranquillity and peace of this empire, is the *second* wish that animates my heart—the *first* is, since hazards are incurred and consequences have been neglected, that, at whatever hazards, at whatever consequences, the cause of substantial justice may triumph.

The Counsel were directed to withdraw.

Earl *Grey* said, that before her majesty's counsel proceeded to call the witnesses for the defence, he wished to call the attention of their lordships to two statements which had been made by the learned counsel at the bar, and which he considered of so much importance, that he felt it his duty to submit to their lordships the propriety of calling upon the counsel to know whether they were now prepared to enter into the proof of those statements. Their lordships would anticipate that he alluded to the representations made by the counsel of the means which had been used to prevent the production of evidence in favour of the Queen, first in the case of the chamberlain of the grand duke of Baden, and next in the instance of general Pino, the testimony of both which persons was stated to be most important. The noble earl opposite had said on a former occasion, with that propriety which had distinguished his conduct throughout this proceeding, that whatever influence his majesty's government possessed with foreign powers should be exerted to procure witnesses for the defence, in the same manner as it had been used to obtain evidence for the prosecution. The conduct of the noble earl on that occasion gave general satisfaction; it was as satisfactory to the minds of all, as it was consistent with that fairness and love of justice by which the noble earl declared himself to be actuated in the prosecution of this bill. Upon reference to page 202 of the Minutes of Evidence, their lordships would find that Barbara Kress, upon being asked who told her she should receive compensation? replied, "The minister, our minister;" and upon being subsequently asked by the interpreter what minister she was speaking of, she said, "Monsieur de Berckstett; that gentleman told me that if I would not go voluntarily, I should be forced.*" Here, then, was proof that a witness in support of the charge was under a compulsory threat of a minister of the power to which she was subject, to give evidence, against her will, at this bar. They were now told by the counsel at the bar, that the chamberlain of the grand duke of Baden was a witness material to the Queen's defence; that he had been appointed to attend upon her during her residence at Baden, and that he was able to prove many facts contradictory to the evidence of Barbara Kress. It was stated, that he had been repeatedly applied to by the agents of her majesty; no less than three special messengers had been sent both to the chamberlain and the grand duke himself, and though the chamberlain had expressed his readiness to attend on the part of the Queen, he had been prevented from coming by an authority which he was unable to resist. He would not take upon himself to express any opinion as to the propriety of enforcing the attendance of witnesses either on the one side or the other;

* See Vol. 2, p. 1078.

but admitting, for the sake of argument, that it was right to use our influence with foreign governments to obtain evidence in favour of the charge, he was sure it would be granted that that influence ought to have been equally exerted on the other side. It appeared, however, from the statement of counsel, that influence had not only not been equally exerted, but, on the contrary, directly employed to prevent the Queen from bringing over witnesses who were material to her defence. If that were proved, he had no hesitation in saying, that it was so foul an interference with the administration of justice, that, in his opinion, it would be the duty of their lordships at once to suspend the proceedings. But this was not the only instance in which obstructions had been thrown in the way of the Queen's defence. General Pino had, indeed, been permitted by his government to come over, but it was under the condition that he should not wear his uniform; a condition of so extraordinary a nature, that some explanation was rendered necessary, as to whether it would not amount to the loss of his rank and station in the army? General Pino did not consent to come over upon terms which might have involved a sacrifice of his professional rank and character. Such were the statements which had been made; he could know nothing of their accuracy; and shame be upon those who made these assertions, if they were not proved. It having, however, been distinctly stated, that the course of justice had been obstructed by depriving the Queen of the means of obtaining the witnesses necessary for her defence, while all the influence and authority of ministers had been exerted to bring witnesses against her, he was sure their lordships would not deem it improper in him to suggest, that her majesty's counsel should be asked, whether they were prepared to prove the assertions made by the counsel at the bar, and if so, that they should be called upon to proceed to that proof before any other part of the case.

The Earl of *Liverpool* agreed entirely with the noble earl, that all they were doing in this case would be nothing more than a mockery of justice, if strict impartiality were not observed, as to the production of witnesses both on one side of the case, and on the other. Undoubtedly, whatever influence was exerted on one side ought to be equally applied to the other, subject of course to the same restrictions and qualifications. Before he applied himself to the observations which had been made by the noble earl, he felt it necessary, in justice to the king's government, and to that particular department to which he more immediately belonged, to state some circumstances which he had the means of proving, if necessary, at their lordships' bar, and which he was persuaded, Dr. Lushington and Mr. Vizard, the persons who were consulted on this subject, would be ready to acknowledge. Those gentlemen were informed at the commencement of this proceeding, that whatever requisitions they wished to be made to foreign governments, should be immediately made upon application at the Secretary of state's office. Not only was this stated to them, but, what is not very usual on such occasions, as is well-known to persons acquainted with official details, copies of all instructions given to our ambassadors at foreign courts, were shown them, and, if he was not mistaken, given to them. The courtesy of government did not even stop here, for they were told, if an agent were appointed by them, for the purpose of collecting evidence, this government would write to the Austrian government, to desire that, upon the requisition of that agent, facilities might be afforded him, without the necessity of a previous application to the British minister, or any other authority whatever. It was of course necessary, that there should be some fixed responsible agent, acting in a similar capacity with colonel Browne on the part of the prosecution; and in consequence of this suggestion, an individual, he believed Mr. Henry, had been appointed on the part of her majesty. He stated these circumstances, in order to satisfy their lordships that nothing had been omitted, on the part of government, to facilitate the means of obtaining witnesses for her majesty's defence. If any special difficulties had arisen in particular cases, as at Baden, for instance, where we had no resident minister, he would undertake to say, that if her majesty's counsel, instead of sending a second and a third messenger, had only made application at the Foreign office, not a moment would have been lost in sending over to Baden, and taking every necessary step for the removal of those difficulties. Even now, he would undertake to say, that if her majesty's counsel declared those witnesses to be material to her defence, two hours

should not elapse before a special messenger should be sent over. He could not, however, avoid suggesting, that the cause of a requisition not having been made, might have arisen from other circumstances known to the counsel themselves, but not known to their lordships. Whether some reasons might not have operated with her majesty's counsel for omitting to make any application to government after the refusal at Baden, it was not for him to determine. With respect to the difficulty which had occurred in the north of Italy, he would only observe, that he was anxious that the instructions which have been given in that quarter, should be laid before their lordships. For his own part, he did not believe the excuse made by general Pino to be the true cause of his not appearing on behalf of her majesty. He had seen the correspondence which had taken place with the Austrian government, and it was certainly true that that government had thought proper, particularly after what occurred at Dover, to lay down a general rule, that no officer who should come over to this country, should appear in the Austrian uniform. He believed this was the ordinary usage, but admitting it to be an arbitrary rule, it applied equally to the witnesses on both sides, and might be deemed a necessary precaution under all the circumstances, when it was known that a great excitement of the public feeling prevailed. As to such a regulation being derogatory to the individuals upon whom it was imposed, he confessed that he was unable to view it in that light. Nothing, in fact, was more common, than that officers not on actual duty should appear in a plain dress, and in this very proceeding, two most respectable officers in the British navy had given evidence, not in their naval uniform, but appearing merely as private gentlemen. He believed that no such reason as that stated by her majesty's counsel had operated upon general Pino's mind, and that he had declined coming for some reason best known to himself. He again pledged himself, that if the learned counsel, even at this period, thought the evidence of the chamberlain material to her majesty's defence, not an hour should be lost in sending over a special messenger to Baden.

The Duke of *Wellington* explained the practice which prevailed in the Austrian service with respect to the wearing of uniforms, and vindicated the motives which had induced the Austrian government, on the present occasion, to prevent the possibility of their uniform being subjected to disgrace.

The Counsel were again called in, and the Counsel for the Queen were informed, by the lord Chancellor, that it was the wish of the House that they should state whether they were prepared to prove the facts they had stated at the bar, respecting the Chamberlain of the grand duke of Baden and general Pino.

Mr. *Brougham* stated, that in the arrangement of the evidence he had not anticipated the calling evidence to this part of the Case so early in the proof, and that in consequence the witnesses who must prove a part of those particulars were still abroad; that he was prepared to put in the correspondence with Mr. Henry, who was at the head of her majesty's affairs at Milan, which was such as would enable any solicitor to make an affidavit in a common cause in a court of justice of his information and belief, but that he was prepared with more specific proof of the circumstances attending the absence of the chamberlain of the grand duke of Baden. That he admitted the government of this country had offered to the legal advisers of her majesty all facilities in their power for the procuring the attendance of witnesses, but that her majesty's advisers were not satisfied how far the power of this government might go in procuring the attendance of witnesses against the bill; and that objections had been felt to stating, at a distance of time before their production, the names of the witnesses whom it was meant to call, in consequence of circumstances which it would be his duty to prove in the progress of his case.

Earl *Grey* thought the fact of her majesty's counsel having omitted to make any application to his majesty's government, made a material difference in the view which he had taken of the circumstances. He now thought it unnecessary to enter immediately into this part of the case, unless, her majesty's counsel considered it material to her defence. The best course would be to inquire of the counsel whether they were of that opinion.

The *Lord Chancellor* inquired of her majesty's counsel, whether they thought it material to proceed immediately with the circumstances respecting the chamberlain of the grand duke of Baden?

Mr. *Brougham* said, most unquestionably they were of that opinion. In addition to the reasons which he had already stated, for not applying to his majesty's government, there was another, and a most cogent reason, namely, that it was not above a day or two ago that they were aware of this insurmountable difficulty.

The Earl of *Liverpool* said, that in point of fact there was no charge against his majesty's ministers, either by the noble earl, or by the counsel at the bar. The learned counsel had thought fit to conclude, that the influence which had been successfully exerted in one instance, would not be effectual in another, but at all events he ought to have made the attempt. If he had done this, and the attempt had been ineffectual, it would then have been time enough to have cast imputations upon the motives and conduct of ministers, but he had no right to assume that government would have refused assistance, when that assistance had never been required. Under these circumstances, he submitted to their lordships that there was no necessity for going into the examination of witnesses, with the view which had been suggested by the noble earl.

The *Lord Chancellor* said, that if the counsel at the bar thought it material to the defence of their client, to call witnesses at any part of the case, they ought to be allowed to do so. Whether they thought proper to examine witnesses upon a particular part of the case now or hereafter, was a point which he thought should be left entirely to their own discretion. At the same time he must take the liberty of saying, that though the examination of witnesses respecting the chamberlain of the grand duke of Baden might be very material in many other respects, it could have no effect whatever with respect to a suspension of this proceeding. The want of power on the part of her majesty to compel the attendance of her witnesses would be a most important consideration, whenever they came to decide upon the merits of the case. Their lordships order operated upon witnesses in this country with all the force of a subpœna, but there were no means of compelling the attendance of a foreigner, except by the influence which government possessed with foreign powers. He must say, however, that no suspicion could possibly attach to the conduct of ministers, because the counsel had thought fit in the exercise, he had no doubt, of an honourable discretion, to decline the only means of compelling the attendance of witnesses. With respect to the period at which the witnesses were to be called, he was decidedly of opinion, that the counsel had a right to exercise their own discretion.

Earl *Grey* agreed with the noble and learned lord, that the circumstance of her majesty's counsel having omitted to make any application to government sufficiently exonerated his majesty's ministers from the charge of having in this instance obstructed her defence.

The Earl of *Donoughmore* thought that their lordships ought not to pass over the charge which had been brought against his majesty's government by the counsel at the bar. The statement went so far as to say, that witnesses had been compelled by the executive power, to come in support of this bill, and that compulsion had been used by foreign powers, unresisted by our own government, to prevent witnesses from coming. Much of inflammation and misrepresentation had gone forth to prejudice the public mind, and he trusted their lordships would in future resist such conduct *in limine*. The noble lords who wished the inquiry to go on had been represented as culprits. Imputations were cast upon his majesty's government, which were disproved even by the statements of the counsel who made them. If the queen wanted witnesses, whose fault was it? Her majesty's counsel had not made that application which could alone ensure the attendance of those witnesses. He trusted the House would assert its own dignity, and not permit the insinuations of the counsel upon his majesty's government to pass unnoticed and unrestrained.

Lord *Holland* defended the conduct of the Queen's counsel, and contended, that his noble friend was not perfectly consistent when he complained of that conduct. The Queen's counsel complained that the arm of power had prevented them from producing their witnesses. It was not for the counsel to explain the motives which had led to the exercise of that power, or to show the source from which that arm of power had proceeded. In the discharge of their professional duty, the Queen's counsel had, in his opinion, conducted themselves ably, temperately, and properly; and if they had neglected to state any part of the evidence, which was material

to her majesty's defence, they would have been guilty of a gross dereliction of duty. He called upon his noble friend to reflect seriously upon the effect which might be produced, in the present irritated and agitated state of the public mind, if their lordships allowed themselves to interrupt the course of the proceedings by answering the supposed arguments, and repelling the supposed insinuations of her majesty's counsel. It was not necessary for him to express an opinion as to what might be considered an insinuation, but he supposed that counsel had, in every case, an undoubted right to make an impression favourable to their clients upon the minds of the judges. If, however, the counsel were to step beyond the bounds assigned to him by the established rules of the court, it would then be competent for the Court to say, "You are going beyond the line which has been marked out for you, you are now treading upon ground which you have no right to touch, and you must confine yourself to those limits which have been invariably assigned to you." But he submitted, that after a counsel had been permitted to make his observations, whatever they were, it was not becoming in that House, nor did their lordships consult their own dignity, if they afterwards entered into an altercation with that counsel. It was their lordships' duty to decide judicially upon the case before them, but it was no part of their duty to answer the observations of counsel.

The *Lord-Chancellor* fully concurred with the noble lord, that the House should not enter into any altercation with the counsel at their lordships' bar. If any improper observations had been made by the counsel, he was bound to apologise to the House for not having interposed. But their lordships were aware of the duties which it fell to his lot to discharge, and how difficult it was to discharge them. He certainly could not see, that there had been any reason for interposing. It was not without great hazard that a judge could take upon himself to determine how far a certain line of observation was or was not material to the case of a counsel. In this instance, the counsel had argued, that under all the circumstances, they ought not to be called upon to produce evidence at all, and they urged the peculiar difficulties which they said, had been thrown in the way of producing witnesses for her majesty. They then proceeded to state, that the chamberlain of the grand duke of Baden generally attended upon her majesty, and would have been a witness material to her defence; that letters had been sent by the brother of Mr. Brougham both to the chamberlain and to the grand duke himself, and that the chamberlain was willing to come, but had been forbidden by his court. There was nothing here, he thought, to call for interposition. No imputations whatever had been cast upon his majesty's government. Something had been said of general Pino and his uniform, but he saw nothing in all this to justify the assertion that the counsel had dealt in insinuations. If he had any fault to find with the learned counsel, it was not for what he had said, but for what he had suppressed in the way of insinuation, for after making some observations upon physicians, he added, that "lawyers were kept away—any body might judge why" [A laugh].

The Counsel were directed to proceed.

Then *James Leman* was called in, and having been sworn, was examined by Mr. Denman, as follows:

Are you a clerk to Mr. Vizard, the solicitor for her majesty? I am.

Were you sent by her majesty to Carlsruhe? I was.

On what day did you leave England? On the 1st of September.

On what day did you arrive at Carlsruhe? On the 14th of September.

Were you provided with any letters from her majesty, addressed to any gentleman at Carlsruhe? I had a letter from her majesty, directed to the chamberlain of the grand duke of Baden, the baron d'Ende.

Did you inform the chamberlain that he was required as a witness upon this proceeding? Yes, I did.

Do you recollect on what day that was? It was on the 17th that I first saw him.

Did you on that day make that communication to him? I did.

Did you take his deposition with a view to instruct the counsel for her majesty to examine him at the bar of this House? The chamberlain of the grand duke keeps minutes of the transactions of every day; those minutes were at Baden: it was at Carlsruhe I saw him: the first time I saw him was on the road between Carlsruhe and Baden; I met him.

You first saw him on the 17th, on the road between Carlsruhe and Baden? I did; I informed him that the object of my coming

was, to request that he would attend here as a witness on behalf of her majesty.

Did you at any time take his examination for the purpose of instructions to counsel? On the 20th.

Do you know whether he then had an opportunity of consulting his minutes? Yes, he had; his minutes were at Baden, and he consulted them while I was by.

You took that deposition at Baden? I did.

That was on the 20th of September? It was.

Do you know whether the grand duke was at that time at Carlsruhe? I know he was absent.

When did he return to Carlsruhe? On the 21st.

The day after you had taken this deposition? Yes.

Was the baron d'Ende willing to come as a witness to this country? Yes he was.

At the time that you took his deposition on the 20th? Yes, he was.

Did he state any condition on which alone he could come to this country? He said he could not come without the consent of the grand duke.

After the return of the grand duke to Carlsruhe did he then make any statement as to his coming to this country? He told me on the 23rd, which was the morning he had seen the grand duke, that the grand duke had refused to grant him permission to come.

Be so good as to state, if you can, the precise words he made use of? He came to me and stated, I have bad news for you, the grand duke will not let me go.

The *Attorney General* stated, that he would not interrupt the examination, unless it was supposed it might have a bearing upon the case itself; that if it was understood to be a collateral inquiry, with respect to the conduct of his majesty's government, or the interference of the grand duke, with that he had nothing to do.

The Counsel were informed, that in the opinion of the House that which the chamberlain had stated, as to the words of the grand duke, was not evidence; that it would be hereafter to be considered what was the effect of the Queen not having procured the witnesses she desired.

Mr. *Denman* stated, that he did not examine to this as bearing upon the facts of the case.

Mr. *Denman*.—Did he state any other reason for not coming? I am not aware that he did; he stated that he enjoyed his Hanoverian estates through his majesty, or through his majesty's kindness; but that he would not let that be a difficulty in the way of his coming to this country as a witness, because he was satisfied his majesty would not think ill of him for coming as a witness.

Did you make any other application to him in regard to his deposition? I did; I wrote him a letter requesting him to make a deposition, before the legal authorities of the town, of the facts he had stated.

Did he do so? He did not.

Did he ever give you any other reason for not coming than that you have stated? No.

Did he give you any reason for not making that deposition? That he could not do it without the consent of the grand duke, and that he had not that consent.

Was there a person of the name of Mandeville there? There was.

Was he in the presence of yourself and the chamberlain? He was not.

At no time? No; but he was in the hotel that I was in, and I dined with him most days.

He knew of your being there? He did.

Did you communicate to him your being there on behalf of her majesty? I did not.

When did you return to this country? The day before yesterday.

Do you know whether, during your stay at Carlsruhe, any other person arrived on the part of her majesty the Queen? A Mr. Sicard.

Do you know that yourself? I saw him arrive.

You returned the day before yesterday? I reached London the day before yesterday.

Examined by the *Lords*.

Lord *Grantham*.—In what language did this pass between you and the chamberlain? Principally in English; he speaks English very well.

In what other language? In French.

The Witness was directed to withdraw.

Then *Anthony Butler St. Leger*, esq. was called in, and having been sworn, was examined by Mr. Denman as follows:

Were you chamberlain to her majesty the Queen? I had that honour.

How long did you continue in that office? About eleven years.

From what period? From 1808 to October 1819.

Did you go abroad with her majesty in the year 1814? I went as far as Brunswick with her majesty. Her majesty dispensed with my accompanying her on her tour, on account of my health, and on account of my family, and she was good enough only to require that I should attend her as far as Brunswick.

You say her tour, what tour do you refer to? Her intention of going abroad; it was then said Germany and Italy, as I understood.

Was that understood before you left England? It was so.

According to that permission, did you leave her majesty at Brunswick? According to that permission I left her majesty at Brunswick, as she was good enough to say, that

when I got to Brunswick I might return when I chose.

In the course of the last year, the year 1819, did you receive any communication from her majesty? I received a communication, I think it was in the month of July or August, I cannot charge my memory at present which, that her majesty intended to be in England in the month of September.

The *Attorney General* objected to communications between her majesty and Mr. St. Leger being received in evidence.

Mr. *Denman*.—In consequence of any communication you received, did you make any preparation? In consequence of that communication, I prepared to go and meet her majesty, as she desired, at Dover.

Has the state of your health rendered it impossible for you to attend her majesty from the time you left her at Brunswick till the present time? The state of my health has been such that unfortunately I could not attend her majesty; I have been obliged to go into Devonshire for five years past, where I have been entirely confined all the evenings during the winter months.

Since her majesty's return to this country, have you paid your respects to her? Immediately on her majesty's return to this country I paid my respects to her.

In consequence of the state of your health, did you resign your office? In consequence of the state of my health only; I had the honour of communicating to her majesty that I should be prevented attending her, and I requested her on that ground to receive my resignation.

The Witness was directed to withdraw.

Then the Earl of *Guilford* was sworn by the Lord Chancellor, at the table, and was examined in his place, and by leave of the House, as also with the permission of the earl of Guilford, the questions were put directly to his lordship by the Counsel, Mr. Tindal, instead of to the Lord Chancellor in the first instance, and through him to his lordship, as is the usage and practice of the House.

Does your lordship recollect when her present majesty was at Naples? I recollect coming to Naples after her majesty was there. Her majesty was already there when I arrived at Naples.

About what time was it when your lordship arrived there? I think it was in the very beginning of March in the year of our Lord 1815.

Did any one accompany your lordship upon that occasion? My sister lady Charlotte, Lindsay.

When your lordship arrived at Naples, who formed the suite of her majesty? To the best of my recollection the suite of her majesty were formed by lady Elizabeth Forbes, the hon. Keppel Craven, and sir William Gell, and Dr. Holland was there as her physician at the time.

Does your lordship remember at that time any person of the name of Pergami? Yes, I recollect seeing that person.

In what situation was that person at the time your lordship first saw him? As far as I understood, he was courier.

How long did your lordship remain at Naples? I remained at Naples only three or four days; three days to the best of my recollection.

Was lady Charlotte Lindsay with your lordship when you went there, or did she arrive afterwards? She arrived together with me; we travelled together from Nice to Naples.

Did lady Charlotte Lindsay accompany your lordship when you left Naples? No, she did not; I left Naples before her.

Where did your lordship next see the Queen? At Rome.

What interval was there between your seeing her at Naples and seeing her again at Rome? A very few days; the exact number of days I cannot remember, but it was but a few days before I saw her majesty at Naples.

How long did her majesty remain at Rome? A very few days, I think not more than two or three days; I know it was a very short time.

During that time did your lordship dine with her majesty? I do not think I did at Rome.

Had your lordship dined with her before at Naples? Yes, I had dined with her once at Naples.

Does your lordship recollect who dined there upon that occasion? Particularly I do not remember; there was a considerable party, but the particular individuals who dined there I do not call to my recollection; there were a good many English persons.

Were there any of the nobility of the court of Naples? That I cannot positively recollect.

Did lady Charlotte Lindsay dine there on that day? She did.

Can your lordship recollect whether Mrs. Falconet was one of the party? Whether she dined there on that specific day I do not recollect.

Besides dining with her majesty at Naples, had you other opportunities of seeing her? Only once, the morning of my arrival.

After leaving Rome, where did your lordship next see her majesty? At Civita Vecchia.

Did not her majesty embark at Civita Vecchia to go to Genoa? She did.

How long had she staid there before she embarked? Five or six days; a short time; I think it did not exceed a week.

Did your lordship and lady Charlotte Lindsay form part of her party whilst she was at Civita Vecchia? We dwelt in the same house with her majesty.

And of course lived at table with her majesty? Every day; always.

During that time were any other persons invited, during the stay at Civita Vecchia? The persons invited were, the master of the house, the marchese Mansi, one day, and the other persons of the family.

Are those the persons whom your lordship has before enumerated as forming her majesty's suite when at Naples? No, with the exception of Dr. Holland; Dr. Holland was there; the other persons were not there.

Was Mrs. Falconet there? She was there.

Had Mrs. Falconet any daughters? She had two daughters.

Of what age might those daughters be? The eldest was a young lady, I suppose of fifteen or sixteen and the other was younger.

Does your lordship know who Mrs. Falconet was? I had known Mrs. Falconet before that time in England; she was either an English woman or an American, I believe an American by birth.

In what situation of life was Mrs. Falconet? She was before in a very reputable situation, and was married to Mr. Falconet a banker at Naples.

Is he a person in a considerable line of business? Very considerable.

Does your lordship know, whether she was a person who associated with the first ranks in that country? As far as persons in her situation associated with the principal people, I believe she did; I had not been then acquainted with her for a great while, but I have every reason to believe she did.

Does your lordship know, whether Mrs. Falconet was received among the first ranks of English in that country? I cannot speak particularly to that, not having seen her for some time before.

Does your lordship know, whether one of the daughters of Mrs. Falconet afterwards married an Italian of considerable station in society? I believe she has two daughters married, as far as I understand; one of them I have seen, who is married to an American gentleman of the name of Middleton, and the other, as I have heard, to monsieur Portallis.

Do you mean Mr. Portallis a considerable banker and proprietor in Switzerland? That I really do not know, I have heard his name, but never saw him.

Are those two ladies whom you have mentioned the same two daughters you met at Civita Vecchia, or other two? No, other two daughters; I believe both those ladies were married at that time.

Did the two unmarried daughters whom you met there dine at the table with her majesty? They did.

When her majesty embarked, it was on board the Clorinde, was it not? It was.

Did your lordship embark with her? I did.

And lady Charlotte Lindsay? And lady Charlotte Lindsay.

Who else embarked in the suite of her majesty? Madame Falconet did, and her two daughters, and Dr. Holland.

Where did your lordship and lady Charlotte Lindsay disembark? We disembarked at Leghorn.

From that time there was a considerable interval before your lordship met her majesty again? There was a very considerable time that summer; I did not see her majesty again till the month of November in the year 1815.

Where was it that your lordship then saw her? At the Villa d'Este, her house on the lake of Como.

Was your lordship accompanied at that time by lady Charlotte Lindsay? No, I was not; I saw her first on the lake of Como, in paying my respects to her at her Villa.

Where was lady Charlotte Lindsay at that time? In England.

Did your lordship dine there upon that occasion? I did.

At that time was Pergami sitting at the table of her majesty? He was.

Had you ever seen him before sitting at her majesty's table? Never.

Did your lordship stay longer upon that occasion than the day on which you dined there? No, I went away that evening.

Where did your lordship go to? I slept at the town of Como that night, and the next day I went to Milan.

Did your lordship afterwards, while you were in that country, pay her majesty a second visit? I did; the Sunday following I dined with her majesty at Milan.

When you were there the first time, had you intended to pay a longer visit to her majesty than the dining with her? I do not recollect that I had. I had no particular intention. I was at the time travelling, and only intended to pay my respects to her majesty. I do not charge my memory that I had any intention of staying longer.

Your lordship is understood to have stated that you dined there the Sunday following? The Sunday following at Milan: when I saw her majesty on the lake of Como, her majesty invited me to dine with her the following Sunday at Milan.

Was Pergami at the table that second time? He was.

Has your lordship seen her majesty since that time? I have not.

Cross-examined by *Mr. Attorney General.*

You have stated that while your lordship was at Naples, Pergami was in the situation of a courier; did it happen when your lordship dined with her majesty either at Naples or at Civita Vecchia, or on board the Clorinde, that he waited at table? At Civita Vecchia he certainly did; I do not remember whether he did at Naples.

Did he so on board the Clorinde? I really do not recollect whether he did on board the Clorinde, I cannot positively charge my me-

mory with that circumstance; I remember it well at Civita Vecchia, and I rather think he did on board the Clorinde.

Did lady Charlotte Lindsay hold at that time any situation in her majesty's suite? She was lady of the bed-chamber to her majesty, then her royal highness.

When did she quit that situation? She quitted that situation to the best of my recollection, for I was then out of England, in the beginning of the year 1817, about the month of May, I think, in the year 1817.

Although you say she quitted the situation in 1817, she was not actually in her majesty's suite after she left her in Italy? After she left her at Leghorn, to the best of my knowledge, my sister never joined her majesty.

When you visited her majesty at the Villa d'Este, was there any lady in attendance upon her at that time? There was an Italian lady, who I understood was the countess Oldi.

In the course of dining with her majesty at the Villa d'Este, did you occasionally converse with that lady? Very little, I had some conversation.

From your conversation with her, did she speak the Patois, or the pure Italian? She spoke, to the best of my recollection, a very good intelligible Italian, with rather an accent of the Lombardy, but not very remarkable: we had no very long conversation.

When you visited her majesty at the Villa d'Este, did you see her grounds? I did.

Do you remember whether you had a Greek or an Albanian servant with your lordship at that time? I had a Greek servant with me at the time.

Did her majesty accompany you into the grounds? Her majesty first showed me great part of her gardens, and afterwards lent me her donkey to ride upon to see the rest.

Does your lordship recollect in what part of your tour round the gardens it was that you mounted the donkey? I mounted it I think very near the door, I went afterwards round the olive yard and other places in the grounds.

In going round the grounds, or at the time of coming out, did your lordship see her royal highness in the grounds? While I walked with her royal highness I saw her, but I do not recollect to have seen her walking about the grounds after that.

Do you recollect seeing your servant walking about the grounds? I do not remember to have seen him, though I might have seen him walking about the grounds.

Does your lordship remember whether you did see him walking about the grounds? No, it is a thing I have not charged my memory with.

Your lordship never stated you saw your servant in those grounds? Not that I saw him in the grounds, I heard that he had walked round them.

Do you recollect having stated that you had seen him in any part of those grounds with her royal highness? Not with her royal highness, certainly; I might have seen him with her royal highness; I did not take notice of his being walking with her royal highness; there were people walking about in the grounds and the gardens.

Will your lordship have the goodness to recollect whether you did not see him walking in the gardens with her royal highness? I do not remember that I did.

Or going any where? Nor going any where; I do not recollect the circumstance.

Does your lordship remember a Summer-house or grotto? I remember perfectly her royal highness showing it me.

Does your lordship recollect seeing her royal highness with your servant near that grotto? No, certainly not.

Has your lordship never stated that you saw her royal highness? I never stated that I had seen him with her royal highness, that I had seen him with her in the grotto, certainly not.

Nor in the grounds? She might have been walking with him, but I do not recollect having seen it, or having stated it.

Is your lordship to be understood to state, that you do not now remember whether the circumstance took place or not? Certainly.

That it might have taken place, but you do not recollect it? It might have taken place, but I do not recollect it.

That your lordship might have seen it, but you do not recollect it? They might have been in the garden, but I do not recollect it striking me as any thing remarkable.

Then if it did not strike your lordship as any thing remarkable, it is not likely your lordship should so state that to any one? Certainly.

Will your lordship undertake to say you never have stated that? I can undertake to say I never have said I had seen them together in the grotto.

Or on that day? On that day certainly I have no recollection of it; I do not mean to say I did not see them in the garden, but I do not recollect it.

Had your lordship been accustomed to ride at that time? I had not been a great rider, but at that time I only rode upon a donkey.

Who requested your lordship to ride upon the donkey? The princess of Wales.

Did she urge your lordship to ride round the grounds on the donkey? She certainly did.

Where was your lordship's servant at that time? In the house I believe, or in the grounds; he went with me to the house I recollect perfectly, and was there walking about, I do not know whereabout he was in the grounds; I know he was at the place.

How long did that servant remain with your lordship afterwards? He remained till the year 1817; he left me at Venice in the month of May 1817.

Previous to your sister lady Charlotte Lindsay quitting the situation with her royal highness, had your lordship any conversation with her upon that subject? I had correspondence with her.

Did you recommend to lady Charlotte Lindsay the propriety of resigning the situation which she held about the person of her royal highness? I did advise her to resign it.

What were the considerations which induced you to give that advice.

Mr. *Brougham* here desired to remind their lordships that this was a question addressed to points on which he had been restrained from entering.

The *Lord Chancellor* agreed with the learned counsel, that the examination was taking an irregular course, and it might indeed be adviseable to expunge the preceding question and answer.

Mr. Gurney was then directed to obliterate the passage from his notes.

Re-examined by Mr. *Tindal.*

Can your lordship recollect what the size of this garden was? It was a formal Italian garden, of what size I cannot now precisely recollect.

Your lordship cannot recollect the number of acres within a few? No, I cannot; It was a handsome fair garden.

At the different times, whenever your lordship has seen her royal highness and Pergami together, have you ever observed any impropriety of conduct in her royal highness?

The Attorney General submitted that this did not arise out of the cross-examination.

The Counsel were informed, that it ought to have been asked on original examination, or that if now asked, it would let in the attorney-general to put further questions upon it.

Examined by the *Lords.*

Lord *Rous.*—When you saw her royal highness on the lake of Como, was any body with her? Yes, Pergami.

Was any other person with her in the boat? No.

Earl *Grey.*—At any time when you have been at her royal highness's, and Pergami was in company, have you ever seen any improper familiarity between them? No, certainly none.

Your lordship has stated that in the countess Oldi's language there was a slight accent of Lombardy, but nothing very remarkable? Nothing very remarkable; we conversed together, and what she answered was perfectly good Italian, but with an accent.

What observation did your lordship make upon her manners? That her manners were perfectly inoffensive; that there was nothing remarkable about them, very modest, not particularly vulgar.

Nothing you would denominate as vulgar? Not as vulgar, certainly not; the exact shade of vulgarity I cannot now charge my memory with; I do not remember having considered her as vulgar in her conversation with me, not the least; I do not remember that the impression upon my mind was that of having conversed with a vulgar woman.

Did you observe any particular difference between the manners of the countess Oldi and other Italian ladies? I cannot say that I did; she did not strike me as being a woman of remarkably fascinating manners, remarkably refined; but I did not see any great difference between her and other Italian ladies.

Earl of *Liverpool.*—Were her manners and conversation, the manners and conversation of a person who had been well educated, and who had lived in good society? Upon that subject I really knew her so little, I only conversed with her a very few words during the dinner, and I could not form any opinion of that sort as to the extent of her education; our conversation was extremely short, and there was nothing at all remarkable in the conversation.

How often did you meet countess Oldi? Only twice; once at the Villa d'Este, and the other time at Milan.

Did you at that time know that she was the sister of Pergami? To my certain knowledge no; I heard she was the sister of Pergami; I heard it I think before I was at Como, but I certainly heard it before I was at Milan.

Lord *Erskine.*—Did not your lordship state, I observed nothing vulgar in her conversation, not the least? My conversation with her was very short, I was not struck with any thing vulgar.

Earl of *Lauderdale*—When your lordship dined with her royal highness at Como, did you sit next her royal highness? I did.

Where did Pergami sit? On the other side of her royal highness.

When your lordship dined at Milan with her royal highness, where did you then sit? I sat by her royal highness's side.

Where did Pergami sit? He sat on the other side.

Did he, during the time of dinner, receive any attentions from her royal highness? No particular attentions certainly.

Did your lordship? Her royal highness was exceedingly gracious to me, and conversed with me.

Did you observe how she conducted herself in relation to Pergami? I perceived nothing particular in her royal highness's manner to Pergami at either of those interviews.

Where did countess Oldi sit? She sat on the other side of me at Como; I believe she did at Milan, but I cannot speak with certainty.

Who was at table besides those you have mentioned? Lieutenant Hownam, William Austin, and an Italian gentleman, as I understood, a medical man, who they said

had been at Pavia, that he had been employed there.

Was it the same company at Como and at Milan? It was, to the best of my recollection.

Lord *Kenyon*.—What was the size of the boat in which the princess and Pergami were on the lake of Como? A very small one, a small boat.

Did your lordship observe the boat more when you were approaching it? No, when we approached the boat after her royal highness had spoken to me, Pergami rowed it to the shore.

At what distance was that boat from the shore when you saw it? I cannot tell; not at any great distance; my boat, and that of her royal highness came to the shore together. I was in another boat on the lake.

When your lordship saw the boat move, was it in consequence of Pergami rowing the boat? Certainly.

Earl *Bathurst*.—Did her royal highness introduce you to Pergami? She said, pointing to him, "Voici Monsieur Pergami."

Did she, either at Como or at Milan, give you any reason for having advanced him to the situation he then held? No, she did not.

Did she introduce the countess of Oldi to you? She did.

Did she introduce countess Oldi to your lordship as the sister of Pergami? No, I am pretty sure she did not; I should have remarked it if she had.

Earl of *Darlington*.—What was the deportment of Pergami towards her royal highness? Nothing particular; very respectful.

Was the ground or garden your lordship alludes to immediately joining the Villa d'Este? The garden in which her royal highness walked with me was directly behind the house; the vineyards through which I rode were immediately adjoining to that garden.

Your lordship observed, you did not recollect the exact size of that garden? I do not.

Was it more than one acre of ground? I really cannot give any opinion upon its size, I should think it was more; there was a large Italian regular garden.

Earl of *Belmore*.—Did your sister, lady Charlotte Lindsay, leave the princess of Wales's service of her own accord, or was she dismissed? She left it of her own accord.

Did your lordship recommend to her to do so? I did.

What were the reasons or motives which induced your lordship to make that recommendation?—

Mr. Brougham objected to this question as one which counsel had been restrained from putting.

The Earl of *Liverpool* said, it ought to be understood that every peer was in the situation of a judge, and was entitled to put any question that was not in itself illegal.

The Marquis of *Lansdown* observed, that they were all undoubtedly in the situation of judges, but it behoved them to act concurrently, and to render their proceedings as similar as possible to those over which a single judge presided.

The Earl of *Belmore* was of opinion that the question he had put was one of considerable importance, as regarding the merits of the case, but he was perfectly ready to withdraw it, if in their lordships judgment, it appeared irregular.

The question was withdrawn; and the preceding question and answer were ordered to be struck out.

Lord *Ellenborough*.—Did your lordship make any particular observations on the manners of Pergami? The observations I made on the manners of Pergami were, that they were perfectly unobtrusive, that he was not forward; that was the only observation I made. I have been asked, whether I had a Greek servant in the garden behind the House, to the best of my recollection I had; and that I mentioned the having a Greek servant to her royal highness; but more than that I do not recollect. She observed his dress; but as to having seen them walking together, I have no remembrance of the circumstance. I have, upon this subject, but a very imperfect recollection, but I think I did mention him, in walking in the garden, as a Greek servant, observing that I had him from Athens; he was in the dress of the country.

Had your lordship any conversation with Pergami? No particular conversation: Pergami spoke but little while I was there; and I think the only time when I was ever in a room alone with Pergami was in the gallery of the house at Milan, when he showed me some pictures; but I do not remember any particular conversation.

From the opportunities your lordship had of observing the behaviour of Pergami, could you form any opinion of his being superior to the situation in which he had formerly lived? No, it did not strike me that he was.

This question and the answer were read at the request of Mr. Denman to his lordship, and he stated that the answer was correct.

Then the Right Hon. *Lord Glenbervie* was called, and sworn by the Lord Chancellor, at the table, and examined by Mr. Wilde as follows:

Did your lordship see her present majesty at the time she was princess of Wales at any time at Genoa? I did.

Were you at that time accompanied by lady Glenbervie? I was.

Did her ladyship for any period form any part of the suite of her royal highness? No, not at that time.

Did her ladyship, at any time during the period your lordship was at Genoa, attend in the suite of her royal highness? She did,

In what way? When her royal highness arrived at Genoa, lady Glenbervie and I were there; lady Glenbervie was not in her service at that time, but lady Charlotte Campbell was expected from Nice; the frigate that brought the princess was sent on immediately to Nice, to fetch lady Charlotte Campbell; lady Glenbervie having been formerly one of the ladies of the bed-chamber to the princess, finding herself at Genoa, proposed to the princess, who had none of her ladies with her then, to attend her till the arrival of lady Charlotte Campbell.

Did your lordship, during the time that lady Glenbervie was in attendance upon the princess of Wales, dine at the table of her royal highness? Frequently.

For what period? Her royal highness arrived, I think, on the 26th of March; lady Glenbervie and I continued there till the 17th of May: the princess did not leave Genoa, I think, till the day after we did, which would be the 18th; during that period I very frequently dined with the princess, but not every day.

Did your lordship during that time see a person of the name of Pergami? I saw him every day that I dined there.

What was the conduct which your lordship observed in her royal highness during that period towards Pergami? Pergami waited behind her royal highness's back, in the habit of a courier; it happened to me often to have the honour of sitting next her, and all that I saw was the behaviour of any mistress of her rank to her servant waiting behind her; he often helped her and me to wine and to other things.

What was the conduct observed by Pergami towards her royal highness? That of a servant.

Was it respectful, becoming his then situation, or otherwise? I did not pay any particular attention, but if there had been any thing like disrespect. I must have observed it.

Has your lordship mentioned the year? This was in the year 1815.

What company did your lordship meet at her royal highness's table during that period? Mrs. Falconet and her two daughters, and Mr. Hownam, a lieutenant in the navy, lady Charlotte Campbell after she arrived, which was some days, about a week perhaps after the princess arrived, Dr. Holland also most days, I am not sure he did not all, and also some Genoese noblemen, one I particularly recollect, the marchese John Carlo Negri, and some English gentlemen, I think some officers of the navy; indeed I am sure the captain of the frigate that brought the princess.

Did your lordship see lady William Bentinck there? I saw her at Genoa.

At her royal highness's? Yes, I think I did, at a ball, and I believe at a party; whether she dined there or not I cannot state.

Can your lordship recollect attending any of the balls given by her royal highness? The only ball I recollect, I was at.

Did your lordship meet there the persons of rank of the place? All the society I was in the habit of meeting, the principal ladies and gentlemen of the place.

Cross-examined by *Mr. Solicitor General.*

Your lordship did not live in the house? I did not live in the house, nor lady Glenbervie.

When lady Charlotte Campbell arrived, which was after the interval of a week, lady Glenbervie ceased to act in the situation she had before occupied? Yes, she did; but she was often there at dinner.

How many times, on an average, might your lordship have dined there; two or three times in a week, or how often? Yes, two or three times, or more.

Is your lordship to be understood to state that Pergami at that time appeared in the dress of a servant? A fancy dress, the dress of a courier according to my recollection.

Examined by the *Lords.*

Earl of *Lauderdale.*—Did your lordship meet captain Pechell of the Clorinde at dinner at the princess's? I think I did.

Then his lordship withdrew.

Then Lady *Charlotte Lindsay* was called in, and having been sworn, was examined by Dr. Lushington as follows:

Did you ever form a part of the suite of her royal highness the princess of Wales? Yes, I did.

When did you first enter her royal highness's service? I first entered her royal highness's service, I think, but I cannot be entirely certain, in the year 1808.

Did your ladyship attend her royal highness when she went abroad in 1814? I did.

Was not your ladyship one of the ladies of the bed-chamber? I was.

How far did you go with the princess of Wales upon that journey? I accompanied her royal highness as far as Brunswick.

Why did your ladyship not go further? It never was understood by her royal highness nor by me that I was to go further than merely to accompany her to Brunswick.

When did your ladyship again see her royal highness? I saw her royal highness at Naples in the beginning of March 1815.

Did you then act as lady of the bed-chamber to her royal highness? I did.

How long then did you continue with her royal highness? I joined her royal highness the beginning of March, remained with her royal highness as long as she staid at Naples, left Naples with her royal highness, accompanied her to Rome, from thence to Civita Vecchia, then embarked with her on board the Clorinde, and quitted her at Leghorn,

which was an arrangement that had been settled before we had met.

By whom was her royal highness visited while she was at Naples? She was visited by all the English of distinction there, and by the Neapolitans of distinction, and other foreigners.

Would your ladyship be pleased to state the names of some of those? Lord and lady Llandaff, lord and lady Gage, lord and lady Conyngham, lord and lady Holland, and, I believe, various others; lord Clare, lord Granville Somerset, lord Frederick Montague, lord and lady Oxford, and many young Englishmen; Mr. Fazakerly, Mr. Davenport, Mr. William Bankes, sir Humphey and lady Davy; there may be many others that I have forgotten.

Was her royal highness visited by Mrs. Falconet? She was.

And her daughter? And her daughter.

Was your ladyship on board the Clorinde with her royal highness? I was.

Does your ladyship remember where her royal highness slept? On board the Clorinde her royal highness slept in a part of the captain's cabin; it was divided into two, her royal highness slept in one half, and the captain and his brother in the other half, with a partition between.

Did any one sleep in that division of the cabin in which her royal highness slept? Yes, her maid.

Does your ladyship recollect any thing arising in consequence of the cabin being divided into two parts? I recollect no particular, except that her royal highness rather expressed her surprise, that the other half of the cabin had not been appropriated to my use, instead of the captain and his brother continuing to occupy it.

Did that occasion any difference between her royal highness and the captain? No, I did not observe any difference upon the subject of it; it was merely a remark she made to me.

Does your ladyship remember a person by the name of Pergami being in the service of her royal highness? I do.

In what capacity? As courier.

Had your ladyship opportunities of seeing what passed between her royal highness and Pergami? I was often in company with her royal highness when Pergami was attending.

How did he conduct himself? Just in the common way that a person in his situation would naturally conduct himself.

How did her royal highness conduct herself towards him? In the same manner that a mistress would conduct herself towards a servant.

Did your ladyship ever observe any impropriety of conduct between the princess of Wales and Pergami? Never.

When did your ladyship quit her royal highness's service? I sent in my resignation in the year 1817.

What was your ladyship's reason for resigning? My brother wrote to me requesting me to resign, and I complied with his request.

Has your ladyship seen her royal highness since she has returned to this country? I have.

Cross-examined by *Mr. Solicitor General.*

How long was it before her royal highness quitted Naples that you joined her? I should think about twelve days, ten or twelve days.

How much time was so occupied in proceeding from Naples to Leghorn? We slept one night in going to Rome, staid two nights at Rome, I think we were six nights at Civita Vecchia, waiting for the frigate, and three nights on board the frigate.

Your ladyship is understood to have then left Leghorn, and not to have returned again into the service of her royal highness? I did not resign at that time.

You did not enter after that into the actual service of her royal highness? I left Leghorn for the purpose of having my brother to escort me home to England.

During the time you were at Civita Vecchia did you see Pergami? I did, every day.

Try and recollect with accuracy, whether you did not see him at Civita Vecchia, walking with her royal highness? Her royal highness and I frequently walked out together, and Pergami attended; he did not walk with us, but he walked a little way behind, a short distance behind.

Did that happen every time you walked out? Every time, as far as I can recollect.

Was there any other courier in the service of her royal highness at that time? I believe Hieronimus was also a courier, but I cannot be entirely certain; he was with us.

Does your ladyship mean to say, by saying that Hieronimus was with you, that he walked out with you? No, I do not recollect that he walked out.

Have you the least doubt that he did not walk out with you? I do not think that I had the honour of walking out above twice with her royal highness; I walked out with her every time she walked.

Your ladyship was understood before, to say, that you walked out several times with her royal highness? I might have walked out with her three times, perhaps, but I do not at this moment call to mind above twice that we walked; but I cannot positively swear that we might not have walked out three or four times.

Perhaps your ladyship will swear that you did not walk five or six times? Yes, I can swear that.

You will not undertake to say that you did not walk out four? No, but I think not.

But every time you did walk out, the courier who accompanied you then was Pergami? Yes.

Will your ladyship take upon yourself to swear, that upon no one of those occasions her royal highness walked arm in arm with Pergami? I have not any recollection of her walking arm in arm with Pergami.

Will your ladyship take upon yourself to swear she did not? I have no recollection of it; as far as I can recollect, Pergami attended us at a little distance, unless he was called to be asked a question.

Your ladyship is to be understood, that you will not swear that her royal highness did not walk, upon that occasion, arm in arm with Pergami? I certainly do not recollect that she ever did walk arm in arm with Pergami.

But you will not swear that she did not? I cannot positively swear, but I never was struck with it.

If such a thing had happened, must it not have struck your ladyship? I suppose it would have struck me; and therefore I imagine it did not happen.

But you will not swear it did not happen? I will not swear, because she might have taken his arm upon some particular occasion; not that I recollect that she did, but it might have happened without my being struck with any thing extraordinary.

Your ladyship was understood to state, that if she had taken his arm it would have struck you as something extraordinary? If they had walked arm in arm, but she might have taken his arm.

But you think she might have taken his arm, though they did not walk arm in arm? She might have taken his arm, but I have no recollection of the circumstance.

Your ladyship filled the office of lady of the bed-chamber? I did.

That office did not necessarily lead you into her royal highness's bed-room? Very frequently it did; her royal highness sent for me very frequently.

At Naples? At Naples.

Was her royal highness always alone upon those occasions? Not always alone, certainly; sometimes there were persons with her.

Do you recollect ever upon any of those occasions seeing Pergami in the bed-room? I saw him myself in the bed-room, for we used to dine in the bed-room. I dined in the bed-room with the princess and William Austin, and Pergami used to wait upon us as a servant.

Was that during the time you were at Naples? During the time I was at Naples.

Did any other person, except William Austin and yourself and her royal highness dine upon those occasions in the bed-room? No, I think nobody but we three dined; but other servants used to bring in dishes.

Did that happen frequently while her royal highness was at Naples, during the time you were with her? Yes, that happened whenever her royal highness had not company to dinner, and excepting one day, when I went to Pompei, and her royal highness gave me leave of absence the whole day.

Upon those occasions did Pergami always wait? I think he did, but I cannot positively swear.

When was it that your ladyship quitted the service of her royal highness? In the year 1817.

Had any application been made to your ladyship to join her royal highness in Germany before you took the resolution of quitting? Yes, there had.

How long before? I cannot accurately remember how long before.

Was any proposition made aboutappointing colonel Lindsay to the situation of chamberlain to her royal highness?

Mr. *Brougham* objected to the question. This was exactly the line of cross-examination (named, with reference to the contents of a written document, which document, if it existed, was the only evidence which ought to be produced) that the other side, after two hours argument, had prevented him from taking; and he therefore did not see why it should be taken by his learned friends. There was nothing at all in the question of any consequence; but as he had been prevented examining in the same way, he chose to object to it.

The Lord Chancellor was about to give his opinion (amid cries of "adjourn," and "go on,") when Mr. Brougham said, "I give up the objection; any thing to save your lordships' time."

The *Lord Chancellor* said, their lordships' object was not to save their time, but to do justice. If the objection was well founded it could not be given up by the counsel, because it was the duty of the House to suffer no question to be put which was improper. He suggested that the House should now adjourn and consider this point to-morrow.

The House accordingly adjourned.

HOUSE OF LORDS.

Friday, October 6.

The order of the day being read for the further consideration and second reading of the Bill, intituled "An Act to deprive Her Majesty, &c.," and for hearing Counsel for and against the same; the Counsel were accordingly called in.

Then the right hon. Lady *Charlotte Lindsay* was again called in; and further cross-examined as follows by Mr. Solicitor General.

Is there a garden in the neighbourhood of Naples called La Favorita? Yes, there is.

Did your ladyship ever walk in that garden with her royal highness? Yes, I did one day.

Was Pergami also present at that time? He was.

Did your ladyship in going from Naples to Rome, travel in the same carriage wth her royal highness? I did.

Did Pergami ride as courier during that journey? He did.

Did your ladyship also go in the same carriage in the journey from Rome, after your ladyship left Rome? From Rome to Civita Vecchia. Yes, I did.

Did Pergami also ride as courier during that part of the journey? I believe he did, but I have not so accurate a recollection of it as of the former part.

Does your ladyship recollect, upon the former part of the journey, Pergami coming up to the window of the carriage, and addressing her royal highness, saying "à boire madame?" I perfectly recollect his coming up to the carriage, but it was after he was called; we had provisions in the carriage, and her royal highness gave him some of the provisions out of the carriage, and something to drink.

Has your ladyship a distinct recollection that it was after he was called? I think it certainly was after he was called.

Is there any circumstance that enables your ladyship to pronounce with certainty as to that? No, but merely because it was more natural, that he should not come till he was called to have some provisions given to him.

Then your ladyship has no recollection either the one way or the other, as to that circumstance, but it is a mere inference from reasoning in your own mind? It is; there was nothing struck me as particular in the circumstance.

Was there any bottle in the carriage, which her royal highness handed to him? There was a bottle of wine.

Did he drink from that bottle? I think he did.

From the bottle itself without any glass? Yes, I think so.

Did he afterwards return that bottle to her royal highness? I cannot be quite positive, but I fancy he returned the bottle, but I cannot be by any means positive as to that; her royal highness and I had taken our refreshment before he was helped, and whether he returned the bottle to the carriage or not, or whether he threw the bottle away, I cannot be certain.

Although your ladyship is not certain, to the best of your recollection which way was it, did he return the bottle or throw it away? I rather think that he returned the bottle to the carriage.

After your ladyship had made up your mind to quit the service of her royal highness, did you not state that it was a vast relief to your mind having come to the resolution of quitting her royal highness? I have no distinct recollection of having stated that.

When your ladyship says you have no distinct recollection of having stated that, do you remember having stated any thing to that purpose or effect? No, I might have said that it was, but I do not know that I ever did.

Did not your ladyship, after you had come to the determination of quitting her royal highness's service, say that it was a vast relief to your mind, having come to the resolution of quitting the service of her royal highness, and that you then considered that no woman with any regard to her character could remain in the service of her royal highness? I certainly do not recollect ever having stated any such thing in such words.

Does your ladyship recollect having stated any thing to that effect? No.

Will your ladyship undertake to say, that you did not state the very words now made use of? I have no recollection of having stated any such words.

Your ladyship will not undertake to say you did not make use of those very words? I can say that I did not make use of those very words; I have no recollection of having made use of any such words.

Your ladyship had before said you had no recollection of having made use of such words, and the question then proposed was, whether you would undertake to say that you had not made use of such words? I can only say I think it extremely improbable that I should have made use of such words; and I do not recollect that I did.

Your ladyship is to be understood to say you will not undertake to say that you did not make use of those words? I can only say that I have no recollection of that; I think it very improbable.

Will your ladyship undertake to say that you did not make use of words to that effect more than once? I have no recollection of having made use of words to that effect.

But your ladyship will not undertake to say that you did not make use of those expressions more than once? I can only answer as I did before, that I have no recollection and I do not think it probable.

Did not your ladyship say, upon quitting the service of her royal highness, that if it had not been for an anxious desire to assist a particular individual out of the savings in that service, you would have quitted the service long before? I think it is very possible I might have made use of those words; I do not distinctly recollect that I did, but I think it is possible.

Having recalled this little circumstance to the recollection of your ladyship, did not the former conversation, to which allusion has been made, pass at the same time? I have no distinct recollection at what time I might have said I was induced to remain, from the wish of assisting that individual from my salary; I have no distinct recollection when I said that, and I certainly do not think it was coupled with any words expressive of an ill opinion of the princess.

Is your ladyship to be understood that it was not so, or that you merely think it was not

so, coupled with such terms? As far as I can recollect, it was not so.

But your ladyship will not be positive? I can only say that I have no kind of recollection of it, and that I do think it not at all probable.

Still your ladyship is understood that you will not say positively that it was not so? I have no kind of recollection of ever having stated that my resignation was on account of what you mention, that no woman of character could remain.

Your ladyship will perceive that is not an answer to the question put, whether your ladyship will say positively that it was not so? I can only say I have not the least recollection that I said so to any body.

Your ladyship, in answer to a question put on the examination in chief, stated, that some communication had been made by lord Guilford; was the conversation to which your ladyship has spoken, and which your ladyship recollects, after that communication, from lord Guilford? I have not the least recollection whether it was before or after.

Does your ladyship recollect, whether or not it was about the same time? No, I do not recollect any thing about the period at which the conversation you allude to might have taken place.

Was it after your ladyship had actually resigned? I do not know.

Are there no circumstances to bring that fact to your recollection? Yes, I think that what I said about having continued in the service, in order that my salary might help a certain individual, must have taken place after the communication made me by my brother.

Re-examined by Dr. *Lushington.*

You have been asked as to communications which took place verbally, upon the subject of your ladyship's resignation; to whom was that communication made? To my husband.

To any one else? To no one else.

Is Mr. Lindsay a person in distressed circumstances? He is.

Has he been so for a considerable period of time? For some years.

Had your ladyship ever any difficulty, whilst in the princess's service with respect to the payment of your salary?

The Solicitor-general objected to the question, as not arising out of the cross-examination.

The Witness was directed to withdraw.

Dr. *Lushington* said he had, in the first instance, asked why the witness had quitted the service of her royal highness. In the cross-examination the solicitor-general had endeavoured to show that she had quitted her situation for reasons that had not been stated in her examination in chief—reasons which might materially affect her majesty. He now wished to examine the witness on these to set the matter right.

The *Solicitor General* said, he wished to enter into no argument on the subject. Rather than do this, he would suffer the question to be answered.

The Witness was again called in and the question was put.

Yes, at one time there was a good deal of arrear due.

Did any other circumstances occur in the year 1817 to render your ladyship's continuing in that situation disagreeable to you? Yes, it would have been particularly disagreeable if my attendance had been required at that time, because I was under considerable depression of spirits.

Had your ladyship at that time lost a near relation? I had lost two.

Was it not the late lord Guilford, and the late lady Glenbervie? Yes it was.

Did you yourself observe any thing in the conduct of her royal highness, any impropriety, to induce you to quit her service? I myself never observed any improprieties in the conduct of her royal highness to induce me to quit her service.

Examined by the *Lords.*

Earl of *Donoughmore.*—You have mentioned that you joined the princess of Wales ten or twelve days previous to her leaving Naples? I did say so.

Your ladyship also said you were one night on your journey to Rome?—Yes, that is quite correct.

That you remained at Rome two days? Two nights and one whole day.

At Civita Vecchia six days? To the best of my recollection six days.

And on board the Clorinde three? I think three nights.

Making altogether twenty-four days? Yes.

After your ladyship had quitted the frigate, you went one way, and the princess went another? Yes, I went with my brother.

Therefore, the experience your ladyship has had of the conduct and deportment of the Queen as princess of Wales extended over a period of twenty-four days only; that being the number of days mentioned in those enumerated by your ladyship? Certainly, at that period.

Therefore the testimony of your ladyship, the opinion your ladyship is enabled to give of the conduct of her majesty as princess of Wales, extends over a period of twenty-four days only? In Italy.

That is the part of the conduct of the princess of Wales which you are here to speak upon: it extends over a period of twenty-four days only; during that time you have said that you observed no impropriety on the part of her royal highness in her intercourse with Pergami? During that time I observed no

impropriety on the part of the princess of Wales in her intercourse with Pergami.

What part of the English suite of the princess of Wales was in her royal highness's service at the time of your ladyship joining her at Naples; was sir William Gell? Yes, sir William Gell.

Did sir William Gell remain in her royal highness's service when she quitted Naples, or had he left it? Sir William Gell resigned before we left Naples, on acconnt of his health not permitting him to travel to the North.

Was the hon. Keppel Craven in her royal highness's service at the time of your joining her at Naples?

Yes, he was.

Did he remain in her service when she sailed from Naples?

No, he also resigned.

Was captain Hesse in her royal highness's service at the time of your ladyship's joining her royal highness? Captain Hesse was at Naples with her royal highness, but I am not certain whether he was in her service or not.

Did captain Hesse embark with your ladyship and her royal highness on board the Clorinde?

No, he did not.

Then he had quitted the service, if he was in the service, as well as the other persons who have been mentioned? Yes, he certainly did not accompany us when we left Naples.

At the time that all those persons had quitted the service of her royal highness, were you aware of any other persons having joined that service; was Pergami himself in the service? I found him in her royal highness's service.

Did a sister of his, of the name of Faustina, join the service of her royal highness at that time at Naples? Not that I am aware of.

Did you know that such a person was ever in the service? I never heard till lately, of such a person.

Louis Pergami, his brother, did your ladyship know any thing of his having joined her royal highness at Naples? I am not quite certain, but I think I recollect a person of the name of Louis Pergami at Naples.

You do not know of his having been taken into her royal highness's service at Naples? No, I cannot speak with certainty to it.

Did you know any thing of the mother of Pergami having entered into her royal highness's service at Naples? No, I never heard of her till lately.

Did you know any thing of a child, of the name of Victorine, having been admitted under her royal highness's protection at Naples? No, there certainly was no such child at the house at Naples when I was there.

In answer to a question just now asked, as to the reason you had for quitting her royal highness's, service, you have said, that you had seen nothing improper in her conduct? No, I had seen nothing improper in her royal highness's conduct.

Therefore there was nothing your ladyship had seen improper in her royal highness's service which was the cause of your quitting that service? I had not seen any thing improper that was the cause of my quitting her service.

Had your ladyship any other reason for quitting her royal highness's service, of any sort or kind, which operated upon your ladyship's mind, excepting those which your ladyship has already mentioned? I certainly had not seen any thing improper in her royal highness's conduct while I was in her service; but the reports were of so unpleasant and degrading a nature, that they did operate upon my mind in making me not wish to continue in her service.

Lord *Calthorpe*.—During your acquaintance with her royal highness, had your ladyship observed in her a degree of familiarity towards her menial servants, both male and female, that is unusual in persons of such high distinction? I certainly think that her royal highness was peculiarly affable and familiar in her manner to all her servants.

Does your ladyship think that that condescension greatly exceeded that which is usually shown among the higher classes in this country towards their inferiors? I think the higher classes in this country are much more apt to be exceedingly kind and condescending to their servants than those perhaps of a rank beneath them, and I think that her royal highness's manners were very peculiarly so.

Does your ladyship think that those manners were peculiar even in a foreigner? I am perhaps no very good judge in that case, but foreigners are I think more apt to converse with their servants than English people, they have less reserve; and I think that her royal highness had certainly that sort of familiarity that I have observed in foreigners, in conversing with their servants.

Does your ladyship think that that familiarity greatly exceeded what you have generally seen shown by foreigners, from the opportunities that you have had of seeing foreign society? No, not greatly.

When your ladyship said that you had not observed any impropriety in the conduct of her royal highness towards Pergami, or any impropriety in his conduct towards her; had you reference to that peculiarity of her behaviour to which you have adverted? I had.

Is your ladyship then to be understood to say, that from the habit you were in of seeing this unusual degree of familiarity and freedom in her royal highness's manners, circumstances might have passed unnoticed by you,

which in a person of more habitual reserve than her royal highness, would have appeared to you extraordinary, and perhaps unbecoming? I do not know that they would have appeared to me extraordinary and unbecoming, her royal highness appeared to me to talk to Pergami, as she used to do to Sicard; and various other persons in her family.

Earl of *Lauderdale.*—Your ladyship has said that you quitted her royal highness's service, in consequence of a request from the earl of Guilford your brother; was that request communicated in writing? It was.

Has your ladyship the letter in your possession communicating that request? No, I have not.

Can your ladyship say whether the difficulty of receiving your salary, was the ground upon which that request was made? No, I do not think that that was the ground on which the request was made.

Do you know whether that letter is now in existence? I believe not, I did not keep it.

Have you made any search for it? No, I have not.

It being suggested that her ladyship might be requested to search for the letter, and to produce it if still in existence, the attorney-general of the Queen objected to the production of the letter if in existence.

The Counsel were informed, that a question having been put yesterday, what led this lady to resign, and she having said the request of her brother; the counsel on one side having established that fact on their part, the counsel on the other side had a right to say either that that should not stand part of the minutes, or they had a right to know what was the request contained in the letter; but that unless the letter was proved to have been lost, questions upon the contents of it could not be asked.

Her ladyship was directed to make a search for the letter, and to produce it if in existence.

Earl of *Lauderdale.*—Your ladyship has said, that when at Naples you have been in her royal highness's bed-chamber; did you go into her royal highness's bed-chamber when you were not sent for, or without knocking at the door? I do not suppose that I went without being sent for; but I am certain I did not knock at the door when I went.

Do you ever recollect having gone there without being sent for? I do not recollect at Naples whether I did or not; I should not have gone unless I had had something particular to communicate, of course, to the princess without being sent for, and I do not recollect that that occurred whilst I was there.

Your ladyship has said, that before you went to Naples there was an arrangement about your quitting the service of her royal highness at a particular time; was that an arrangement of your proposal, or proposed to you by the princess of Wales? It was my proposal when I was at Nice. Her royal highness wrote to me, saying, that as I was still upon the continent she wished I would come and join her at Naples; in answer to that I said, I would obey her royal highness's commands, but I hoped she would not object to my availing myself of the request of my brother to return to England, as I wished to be in England by the beginning of the summer, and could not very well travel by myself.

The following question was put at the request of the Solicitor General:—

At what month in the year 1817 was it you resigned your situation under her royal highness? Upon my word I cannot be entirely accurate as to that, but I should think it was either the month of June or July; about that time of the year.

The Witness was directed to withdraw.

The Right Hon. the Earl of *Llandaff* was sworn by the Lord Chancellor, at the table, and examined by Mr. Brougham as follows:

Was your lordship in Italy in the year 1815? I was.

Was your lordship accompanied by the countess? I was.

Were you together at Naples during that year? We were.

How long a period of the year were you at Naples together? I went there the latter end of 1814, and I remained there till April 1815.

Did you go there in November 1814? In November or December, I do not exactly recollect which.

But before the end of 1814? Yes.

During that time did your lordship frequent the society of the princess of Wales? I did.

Did your lordship frequently visit at her royal highness's house? Very frequently.

Was your lordship at her royal highness's frequently in the course of a week? Yes, I was certainly.

About how often in a week? Once or twice a week.

Did your lordship dine there? I did, frequently.

Did your lordship frequent evening parties there also, at times when you had not dined there? I did.

Did the countess of Llandaff accompany your lordship to her royal highness's house upon those occasions? Most generally.

What society visited her royal highness in Naples at the same period with your lordship and the countess? I think the generality of the English, all the Neapolitan noblesse of course.

During the time that you had that intercourse with her royal highness did your lordship ever observe any impropriety in her conduct? No.

Did your lordship observe any thing in the demeanor or habits of her royal highness which made it at all unpleasant for you to permit the countess to associate with her? Not the least.

Was Pergami at that time in her royal highness's service? He was.

Did your lordship see him so? I saw him constantly.

Did your lordship see any thing in the manner of her royal highness towards him, or in his manner towards her royal highness, that was at all improper? Never.

Did your lordship ever afterwards, after leaving Naples, again meet her royal highness in society in Italy? I met her royal highness after that at Venice.

About what time of the year was that? I think it was about June or July 1815.

Where did your lordship lodge at Venice? I lodged at the hotel Gran Brettagna.

Was the countess with your lordship there also? She was.

Where did her royal highness then live? Her royal highness was then in the same hotel; she had one side of the hotel, I had the other.

Did your lordship renew your intercourse in society at that hotel with her royal highness? I did.

Did the countess also? She did.

Did your lordship observe any thing there of an improper description in her conduct or demeanor? Not the least.

Did your lordship ever happen to go into her royal highness's chamber while living in the same hotel? I have occasionally gone in there in the morning, her sitting-room being immediately opposite my sitting-room.

Did your lordship on those occasions knock at the door before going into the room? I cannot take upon myself to say whether I did or did not.

Does your lordship recollect ever having gone in without that ceremony? I cannot take upon me to say; I rather think I have, for this reason, I had a child that her royal highness took a fancy to, and I used to walk in with the child into her royal highness's room.

Did your lordship say you ever recollect having knocked before you went in? No, I do not.

Your lordship does not recollect having knocked any more than not having knocked? No.

Has your lordship lived for any considerable time in Italy, besides those different months you have mentioned? Yes, I have.

A good deal? Two years.

Does your lordship know whether it is the practice in Italy for men as well as women to be in ladies bed-chambers in the course of the morning? I think it is a very common practice in Italy for men to attend ladies rooms as much as women.

Is it an ordinary practice in Italy for men to see ladies in their bed in the morning when they call?

The Attorney-general objected to the Question.

The Counsel were informed, that the witness must state whether it was from his own knowledge he spoke.

Mr. *Brougham.*—Your lordship is requested to speak from your own knowledge, and your own practice and experience? I have seen many ladies in bed in a morning.

Was that in the ordinary intercourse of society? It was.

Were those ladies of unimpeachable conduct and character? They were, as far as I know.

Did your lordship at the same time see other gentlemen enjoy their society in the same manner? I have.

And at the same time with your lordship? At the same time my brother and I were together; and we have frequently gone together into rooms where ladies were in bed.

To make a morning visit? To make a morning visit.

Cross-examined by *Mr. Attorney General.*

When was it that your lordship was at Venice when her royal highness was there? It was either June or July in the year 1815.

Was Pergami with her royal highness at Venice? He was.

In what situation was he then, does your lordship know? As courier.

Did your lordship dine with her royal highness at Venice? Not at Venice.

At any other place than at Naples did your lordship dine with her royal highness? I did not; I never met her at any other place than Naples and Venice.

How long was your lordship at Venice whilst her royal highness was there? I remained at Venice, I think, about two months.

How long was her royal highness there at that time? I do not recollect; she left the hotel, and I cannot state how long she remained there.

You have been asked whether you were in the habit of visiting her royal highness, and going into her chamber without notice; did your lordship mean her bed-chamber? No, certainly not; her sitting-room.

Examined by the *Lords.*

Earl of *Lauderdale.*—Does your lordship recollect the names of the other attendants at Naples when you dined with her majesty? The servants; no, I do not.

Can your lordship state any circumstance which has impressed the name of Pergami upon your mind, without your knowing the name of any other attendant at table? Pergami was a very singular figure, and I knew

him by that; I recollect him by his figure; he was a strong looking man.

Is your lordship to be understood that you became acquainted with his name by remarking his figure, and from that circumstance asking what his name was? I never asked what his name was; but he being pointed out to me as Pergami, and from his figure I did not forget him; I recollected him afterwards from that circumstance.

Does your lordship recollect who pointed him out as Pergami? I do not.

Lord *Grantley.*—Whilst your lordship was abroad, did you observe any thing in the conduct of her royal highness calculated or likely to reflect disgrace upon our own country? I did not.

Lord *Ellenborough.*—Does your lordship recollect a ball given by her royal highness to king Murat at Naples? I do.

Was your lordship present at that ball? I was.

Does your lordship recollect the dress of her royal highness upon that occasion? I do not.

His lordship withdrew.

Then the Honourable *Keppel Craven* was called in; and having been sworn, was examined by Mr. Denman, as follows:

In the year 1814 you were in the service of her royal highness the princess of Wales, as one of her chamberlains? I was.

Did you leave this country with her, and go to the continent in that character, in the course of that year? I did not leave this country with her; I joined her royal highness at Brunswick.

Did you accompany her royal highness from Brunswick to Milan, and from thence to Naples? I did.

When you joined her royal highness at Brunswick, was it settled between her royal highness and you, how long you should remain in attendance upon her? Not exactly the time, but as much space of time as my affairs would allow me to give up to her royal highness.

How long, in point of fact, did you remain in attendance upon her royal highness's person? I remained rather more than six months.

Where did you leave her? At Naples.

And why did you leave her? It was always understood, when I entered her royal highness's service, that I could not stay with her more than two or three months; when I arrived at Naples, I found that I could remain with her as late as the month of March, and I therefore informed her royal highness of this, and she was pleased to continue my services with her.

Did you in fact stay three months longer than you originally intended to stay? I staid about four months longer than I had intended to do; for when I first set out, I did not expect to stay above two months with her.

Do you remember, when you were at Milan with her royal highness, that any courier was discharged for misconduct or any other cause? There was no courier discharged at Milan, but he was to be discharged afterwards, and another was to be found at Milan to supply his place.

In consequence of that, did you apply to the grand chamberlain of the emperor of Austria, to find a person of that description? I applied to the marquis Ghisiliari, who had been appointed by general Bellegarde to attend upon her royal highness whilst she was at Milan, in capacity of chamberlain.

Did he mention any person to you, to supply the place of that discharged courier? Yes, he did.

Who was that? A person whom I found afterwards to be called Pergami.

Will you be so good as to state, whether he recommended Pergami as a person fit to be received and trusted in the service of her royal highness?

Mr. Solicitor General objected to the question. What the marquis had said in recommendation of Pergami could not be received as evidence.

The Counsel were informed, that it appeared to be part of the transaction.

The question was then put, and the witness said,

He did, he recommended him very strongly.

Did he state whether he had any knowledge of the family of Pergami? He said he had known his family a great while, and that he was interested about them.

The Counsel were informed, that in the opinion of the House, it was doubtful whether that question could be put.

The Witness was directed to withdraw.

Mr. *Denman* maintained, that all that had yet occurred was material evidence. The question was, whether the two last questions and answers were to stand upon the Minutes, and whether he was to be allowed to continue his examination as to the family of Pergami. Now, he did not wish that either those questions should stand upon the Minutes, or that his examination into the family of Pergami should be allowed to continue, unless they were necessary to show that the family of Pergami was respectable, the allegation of the bill being, that he was a foreigner in a low situation—a menial servant, promoted highly beyond his merits. Now, if he proved that Pergami had been recommended to her majesty, by the highest authority, as a person whose family was respectable, though in reduced circumstances, and whose conduct was such as entitled him to consideration, and rendered him a fit object for promotion, he apprehended that he had shown sufficient cause why her majesty had given to Pergami that promotion which it was now imputed to

her as a crime that she had given; and it was therefore impossible to prevent him from showing that her majesty's motives were pure, unless they wished to preclude him from entering into her defence altogether.

The Counsel were informed, that if what was stated to the witness was afterwards represented to her majesty, that representation of it formed a ground on which the evidence might be admitted, for that the representation to her majesty, and its influence on her future conduct towards that individual, might be material; that it must not be taken as proof of the fact represented, but that there was a representation true or false made to her majesty, on which she might be supposed to have acted.

The Witness was again called in and asked,

Did you know any thing of Pergami before the marquis Ghisiliari recommended him to you? Not at all.

Were you desired by the princess of Wales to make inquiry for such a person? I was.

Did you communicate to her royal highness the result of the inquiry you had made of the marquis? I did so.

Have the goodness to describe what it was that you communicated from the marquis as to the character of the individual engaged? I told her royal highness that the marquis Ghisiliari had a person that he wished to recommend to the situation of courier, and that he could recommend this person very strongly, having known his family some time, and wishing to obtain a good situation for him; that was as far as I recollect what I said to her royal highness upon the subject.

Did you state any thing to her as to the situation in which he was hired, in which he was engaged?—I think marquis Ghisiliari told me, that he hoped the man might remain in the situation.

Did you communicate, to the best of your recollection, what you are now stating, to her royal highness? Yes, I communicated all that the marquis said to me to her royal highness.

Have the goodness to state what the marquis said as to the probability of promotion? He said, that he hoped if he behaved well he would be continued in the family.

Was any thing said about advancement or promotion? Yes; marquis Ghisiliari said, that he hoped he might remain as a servant out of livery in the house when her royal highness stopped any where.

Did he state any thing as to what he knew of his family, any thing more particular than what you have mentioned? I do not recollect that he said any thing particular, except that he had known him a great while, and that he wished to be of use to all of them.

Did it ever happen to you to see the marquis and Pergami together? Yes, at Milan and at Piacenza.

Did you observe the manner in which the marquis treated Pergami on those occasions?

Mr. Solicitor General objected to the question.

Among the recommendations you carried to her royal highness of the persons recommended to her service, did you mention the manner in which he was received and saluted by the Marquis Ghisiliari?

Mr. Solicitor General objected to the question.

What recommendations did you mention as reasons for her royal highness receiving this person into her service? Marquis Ghisiliari told me he had known him and his family a long while, that he wished to be of use to them, and that he was particularly interested about him also, as he had served some friends of his, as I understood.

You went to Naples with her royal highness? I did.

On your approach to Naples, were you met by any persons at some distance from that city? We were met by the then king of Naples, but first of all by some of his officers.

Do you recollect whether you took refreshment any where on the way? We slept three nights on the road.

At what time, in point of fact, did you enter into Naples? Naples itself we entered on the eighth of November, about half an hour before dark.

What time by the clock would that be? Half past six, I should think.

Did you go that night to any house that had been taken for her royal highness? Immediately on our entering Naples, we drove to the house that had been taken for her.

Did her royal highness then take possession of it? She did take possession of it.

Do you recollect whether there was any thing particular about the arrangement of that house, in respect of its convenience for the party that first night? It was very inconvenient, for sir William Gell and myself had two very bad rooms.

Was there any thing generally observed about the want of accommodation for the suite? There was not room enough for the whole suite by any means.

Were you and sir William Gell able to continue in the same house, or did you take lodgings elsewhere the following day? It was agreed we should take lodgings as soon as ever we could find them, and we looked for them the next morning, in the course of the next day.

Do you recollect any particular persons calling on her royal highness on the following day? The king and queen of Naples called upon her.

Do you know where she dined on the first day after her arrival? She dined at court.

Was there any entertainment given at court after dinner? There was a concert.

Do you know how late her royal highness remained at that concert? About haf p as eleven I should think.

Did you leave the concert with her royal highness? Yes, for I was in waiting.

On the evening next following that; that was the second entire day of her royal highness being at Naples, do you remember where she passed her evening? She went to the Opera.

Did you go with her royal highness to the Opera? All her suite went with her.

Did any other persons go with her to the Opera? She went from her own house to the palace, and from the palace, with all the court and their retinue, to the Opera.

Do you remember the box which was provided for her at the Opera? She sat in the state-box with the king and queen.

Was there any illumination in the house that night? The theatre was entirely illuminated.

Did you return particularly early from the Opera that night, or how? The Opera at Naples always ends very late, and we staid till the end of it.

Can you state whether it ended earlier or later than usual on that evening? I should think it ended rather later, for it began later.

What is the usual hour at which the Opera may be said to end at Naples? It varies because it begins later in the Summer than in the Winter.

In November? It depends upon the length of the dance also.

Have you any recollection of the length of the dance on that evening? Yes, it was very long and very tiresome.

Did her royal highness and her suite remain till the whole was entirely concluded? Till the curtain dropped.

Do you remember a masked ball that was given by her royal highness, as a compliment to the reigning king of Naples? I do.

Do you remember any dress that her royal highness wore upon that evening? I remember she had three dresses; two of them I recollect perfectly well; the other I do not remember so well, because I only saw her for an instant.

Will you mention the two that you remember? One was a Turkish dress I think, and the other was that of a Neapolitan peasant; the third was the Genius of History, as I was told.

Did you see that dress which you were told was the Genius of History? I saw it for a short time.

Upon her royal highness? Upon her royal highness.

That night? That night.

Be so good as to state to their lordships whether that dress was in the smallest degree indecent or improper? I do not recollect that it was at all indecent.

Do you recollect particularly as to the breast? I think it was a dress of white drapery, that came up very high, as far as I remember.

Do you remember what dress it was that her majesty wore before she put on that? I do not exactly recollect, but I think it was the Turkish dress; it must have been the Turkish dress, because the last she wore was the Neapolitan peasant.

As far as you recollect at this distance of time, would it or would it not have been possible to have put on the dress of the historic muse over that she wore as a Turkish peasant? I really do not know, because I took no notice of the Turkish dress much; it might have been put over some part of it certainly.

Then, according to your recollection, would it have been necessary that the dress should have been entirely changed when her royal highness shifted from that of a Turkish peasant to that of the historic muse? Not necessary entirely.

Pergami was engaged, you say, at Milan? Yes.

Did he attend her royal highness from Milan to Naples, and continue in her service during her residence there? Yes.

Did you observe any impropriety of conduct, or any degrading familiarity between her royal highness the princess and Pergami during the time between the engagement at Milan, and the departure of her royal highness from Naples? Never.

Have you dined subsequently at table with her royal highness and Pergami? I have.

Has that happened frequently? Three times.

Upon any one of those occasions, did you observe any sort of impropriety of conduct between those two individuals? Never.

Do you know the countess of Oldi? I have seen her once.

Is she a person of vulgar manners? No.

Do you remember having any conversation with her royal highness before she arrived at Naples, upon the subject of William Austin? Yes.

Have the goodness to state what it was? I think that I told her royal highness, before we came to Italy, that it would be as well that William Austin should no longer sleep in her royal highness's room.

Did you state any reason for giving that advice? I said that the people in Italy might make some observations upon it.

Was any thing said about his age? Yes; I said he was of an age that might give rise to those observations.

Of what age was he then? I do not exactly know what age he was.

Was he six or seven? No.

How old do you think he was? Thirteen or fourteen, according to my idea; I do not exactly know what age he was, I only went by his looks.

Did you dine with her royal highness at Naples generally? Whenever she had company.

Amongst that company did you ever see the baron Ompteda? Yes, very often.

On those frequent occasions when you have seen him at her royal highness's table, do you recollect whether a person of the name of Theodore Majoochi had any opportunity of seeing him? Yes, he must have had an opportunity of seeing him, for he waited at table.

Did he wait habitually at table? Every day when there was company.

On the death of his late majesty did you attend the Queen at Rome? I came to Rome very soon after that event, and I waited upon her majesty the day after my arrival.

How long after that did her majesty leave Rome? I think she left Rome the day after I was with her.

Was the baron Reden, the Hanoverian minister, at Rome at that time? He was.

Is the marquis Ghisiliari now alive? No, he is dead.

Cross-examined by *Mr. Solicitor-General.*

Do you recollect where that conversation took place about William Austin? I cannot recollect the place, but it must have been soon after we left Brunswick.

Were you rightly understood that that was the recommendation you gave to her royal highness with reference to Italy? It was.

Then that was a recommendation that was prospective on your part? It was so.

You have mentioned that you saw the countess Oldi once; will you have the goodness to mention where that was? It was at Pesaro.

Did you dine at Pesaro upon that occasion? I did so.

And you saw her at dinner? I saw her at dinner.

You have mentioned that you dined at the same table with Pergami three times; have the goodness to mention when that was, and where the first? The first time was at Pesaro; that was supper, not dinner.

Were the other occasions also at Pesaro? One was at Pesaro, and the last was at Rome.

Was that at Rome upon her majesty's way to this country? It was the day before she left Rome for this country.

Did you accompany her majesty? No.

You parted with her at Rome? I did.

You are understood to say, that at the masked ball at Naples you took no particular notice of the third dress, the dress of the Genius of History? That was the second dress; I saw it for so short a time I had not time to take notice of it.

Did you see Pergami at that ball? I do not recollect that I did, but all the servants were there.

Did you go up into her royal highness's room? No.

No part of the evening? No part of the evening.

You have been asked whether, in your judgment, it was necessary to take off the whole of the first dress for the purpose of putting on the second; whether it was or was not taken off, can you say or not? I cannot say whether it was taken off, or whether it was not.

Did you and sir William Gell live out of the house during the whole of the time you were at Naples, except the first day? We were in the house for, I think, two nights; we slept there.

The rest of the time you lived out of the house? Entirely; we dined in the house.

Did you not usually come to the house merely for the purpose of dining? We took our waitings by turn, and the person who was in waiting was in the house all day long.

Where was the room in which you waited, in reference to her royal highness's apartment? It was in the end room of the front suite of rooms, and there were two rooms between that and her royal highness's bedchamber.

You have said something as to the disposition of the rooms on the first night of your arrival at Naples; do you yourself personally know what that disposition was? I only know with regard to my own rooms, and those of her lady in waiting.

Was there no circumstance that led you to know in what room Pergami slept the first night? No.

Or what room was appropriated for him the first night of your arrival at Naples? No, I heard nothing mentioned about it.

Did you ever, either to lady Charlotte Lindsay, or to any other person, state that you had made a representation to her royal highnesss as to what had been observed with respect to her royal highness and Pergami on the terrace of the garden attached to the house at Naples; I did so; I did not mention it to lady Charlotte Lindsay, but I mentioned it to a person at Naples? I mentioned that I had spoken to her royal highness about it; it was with regard to what I had observed.

What you had seen? Yes.

Have the goodness then to state what it was that you saw, and what you represented? I saw her royal highness walking in the garden, and Pergami was near, he was walking also in the garden; I knew there was a spy at that time at Naples; I had had information of it from England; that being the case, I thought it necessary to caution her royal highness with regard to any outward appearances that might be misconstrued.

When you say you had information from England, was that by letter? It was by letter.

Was any other person in the garden except her royal highness and Pergami at the time to which you allude? She said there was.

Did you see any other person? No, because she walked on a sort of terrace, which was much higher than the rest of the garden;

there might have been other persons whom I did not see.

Do you know whether that terrace was near to the small cabinet that was contiguous to the room of Pergami? I cannot tell, for I never was in the garden, or in any part of the house.

Where was the spot from whence you saw her royal highness? From the terrace on the opposite side of the house, near the lady-in-waiting's apartment.

What apartment was that, was it the apartment of lady Elizabeth Forbes? It was so.

Was that terrace on the same elevation as the terrace on which her royal highness was walking? No, it was higher.

When you say it was higher, do you mean that the terrace near the apartment of lady Elizabeth Forbes was higher than the other? I think so.

Where was Pergami, on the terrace? He was on the same level with her royal highness.

How far was her royal highness from the corner of the building which terminates that terrace? She was walking along the place.

How long did you see her there? Only from one end of the terrace to the other, as she walked up.

During that time you saw no other person but Pergami? I could see no other person but Pergami during that time.

Was that the only time that you ever saw her royal highness and Pergami in the garden together? The only time.

How long was that after your first arrival at Naples, as nearly as you can recollect? Not very long, for they were doing some alterations in the garden.

State, as nearly as you can tell, whether it was a week or a fortnight, or a month? I really cannot say exactly how soon it was.

Was it a fortnight or three weeks? I should say more than a fortnight.

And less than a month? It might be a month.

Did her royal highness tell you who that other person was that was in the garden? She said there were workmen in the garden.

Her royal highness did not tell you there was any other person in her company in the garden? No, she said she had taken Pergami in there to speak to the workmen.

When you saw her royal highness, there, however, she was walking on the terrace? She was.

And Pergami was also on the terrace? He was walking also.

In the same direction as her royal highness? Yes.

What was the business about which the workmen were employed? I never was in the garden, but I understood—

Do you know of your own knowledge? Transplanting trees.

Do you know whether there were, in point of fact, any workmen? Yes, I know there have been workmen employed in the garden.

At the time when you saw her royal highness and Pergami walking, did you see any workmen in the garden? No, I did not.

From that terrace which is contiguous to the apartment occupied by lady Elizabeth Forbes, had you not an extensive view of the garden? No.

Do you not see from that terrace to the extremity of the building? The house.

And the garden in front of you? The garden is not in the front of the house, the garden is only at one end of the house.

The garden is in front of the house in which you were standing? The garden was in front, but there was a terrace that was higher than the rest of the garden, and that was the terrace on which her royal highness was walking.

Then, if there were any workmen, they were down below? Yes.

But you, in point of fact saw none? I saw none.

Were you ever in the garden yourself? Never.

Do you know, of your own knowledge, whether any workmen were employed there? I heard so.

You do not know it of your own knowledge? I never saw any.

How long before her royal highness quitted Naples did you leave her service? I did not leave it till she quitted Naples.

Do you remember a short time before that, Pergami coming into the room where you and sir William Gell were? He came in very often when we were in waiting.

Do you remember his coming in, not in his dress of courier, but in a black dress? He never wore his dress of courier after coming to Naples.

Do you remember his coming at any time into the room in which you and sir William Gell were, and taking a chair? Never.

No such thing ever happened in your presence? Not in my presence.

Of course you have never stated such a thing? Certainly not.

Were you ever at the theatre San Carlos? Very often.

With her royal highness? Whenever I was in waiting and she went to the Opera, I attended her, and sometimes when I was not in waiting.

Were you ever at the theatre San Carlos when her royal highness was there, and you were not of her party? Yes.

Were you there ever at a masquerade when she was there masked, when you were not of her party? I never was there when she was at a masquerade; I never was at a masquerade but once while she was at Naples; I understood the first question to refer to San Carlos with regard to the opera.

During the whole of the time you were at

Naples, Pergami acted in the capacity merely of courier? No.

And waited at table? He waited at table every day.

How many other couriers were there at that time? There were no others.

What was Hieronimus? He was courier while we were travelling, but he was considered as page I believe when we were not travelling.

Examined by the *Lords*.

Lord *Erskine*.—At the masked ball where you were present, you have said that you did not particularly notice one of the dresses of her royal highness, so as to be able to describe it; if that dress, or any dress that you saw her royal highness in, had been grossly immodest or indecent, must you have observed it? I must have observed it.

Did you observe any dress of her royal highness upon that occasion immodest or indecent? No, not one.

Lord *Rosebery*.—Was the advice with respect to the withdrawing of William Austin from her royal highness's chamber followed or not? I understood it to be followed; I never was in her royal highness's room to see whether the beds were there.

You do not know of your own knowledge, whether it was followed or not? I know at one place on the road it was.

Where was that? That was in Germany before we reached Italy.

Earl *Grosvenor*.—Did you consider the manners of Pergami as superior to those of an ordinary courier? Yes.

Earl of *Darnley*.—Have you any knowledge with regard to the passport granted to her majesty at Rome; did you ever see the passport? I saw the passport, but I did not read it.

A Peer.—In reference to the opinion you gave her royal highness with respect to William Austin, did it proceed from yourself, or was it in consequence of your opinion and advice being asked by her royal highness? It was from myself.

You stated that you saw her royal highness on the terrace, walking near Pergami; did you observe, they being near each other, whether they touched each other?—I did not observe that they touched each other.

Lord *Ellenborough*.—Did it occur to you, that there was any impropriety in the manner in which the princess was walking with Pergami in the garden at Naples? Not the least.

Were his manners apparently those of a gentleman? They were above the situation of a courier; they were not so servile and fawning as those of the Italian servants in general.

Were the manners of Pergami those of a gentleman? Since I have seen him in that capacity they were; before that I had very little opportunity of knowing.

Earl of *Liverpool*,—Independently of the letter you received from England respecting her royal highness's motions being watched, what other reason had you for giving her a hint respecting walking with Pergami in the garden? I had no other reason.

Would you have given her the same hint with respect to any other servant, she had been walking with? Exactly the same.

A Peer.—Could you discover from Pergami's manners and appearance that he had been raised from a lower to a higher situation? No.

Earl of *Donoughmore*.—You have mentioned just now, in answer to a question put. as to the manners of Pergami, that you did not make any observation upon those manners till he became a gentleman, but that from his becoming a gentleman, you did not see any thing inconsistent in those manners; what was the period at which he ceased to be a servant, and began to be a gentleman? I do not know what the period was, for I was not with her royal highness.

To what period then was it you directed your answer when you said you did not make any observations upon his manners till a particular period, which was when he began to be a gentleman; what was that period to which you referred? It was the first time I saw him when he was raised to the situation of chamberlain.

When was that? It was a year ago, rather more.

He had not begun to be a gentleman when he was walking on the terrace? No.

You did not consider him then to have began to be a gentleman whilst you continued with her royal highness? No; for he set off as courier from Naples when she went.

All you speak to, with respect to Pergami, is, when he was in his first capacity, namely, that of a courier, or servant, and not his second capacity, that of a gentleman? I have spoken to both times.

The question refers to your continuance with the queen? While I was with the queen at Naples, he was considered as a servant, and waited at table.

When was the change in his circumstances and situation, the commencement of his being a gentleman? I do not know the precise time; I did not see her royal highness afterwards for four years.

Earl *Bathurst*:—You have stated that you supped with the countess of Oldi at Pesaro, with her royal highness; were there any other ladies at supper at that time? Countess Oldi I dined with at Pesaro; there was another lady, an Italian lady, whose name I do not know.

What company was there at the supper? At the supper countess Oldi was not.

What company was there at the supper at Pesaro? Merely her royal highness's attendants.

Were there any ladies? There was that

same lady I saw afterwards, whose name I did not know.

Was she an attendant upon her royal highness? I did not ask; she appeared to be staying in the house.

Were there any other ladies? I did not see any other ladies.

Lord *Erskine.*—You are understood to have said, that while Pergami was in the situation of a courier, you did not particularly attend to his manners; but that when you afterwards saw him, when he was promoted, you saw nothing in his appearance or manners inconsistent with those of a gentleman? Nothing at all.

Lord *Gosford.*—In the journey in which you accompanied the princess of Wales to Naples, in the ordinary arrangement of the rooms, were the ladies or the gentlemen placed nearest her royal highness? The gentlemen were not placed near her royal highness, but there were always some men near her apartment to guard her.

Do you know who those men were that generally guarded her? It was some of the servants, Hieronimus sometimes.

Can you name any others? It was the upper servants, Mr. Sicard might sometimes, for aught I know, but I did not pay particular attention to it.

Earl of *Lauderdale*—Do you recollect the date at which you went to Pesaro? Within a few days.

What was the year and the month? It was the last year.

In what month? I went to Pesaro in my way to England, and in my way back from England; it was on my road.

When you first saw Pergami on that occasion, were you introduced to Pergami? No; Pergami came to me with a message from her royal highness at the inn where I was.

Did any body come along with Pergami? William Austin came.

On that occasion, did Pergami in the room take any notice of your servant? I do not know whether my servant was in the room or not when he came in.

Were you dressed when Pergami came into the room? Yes; for it was after dinner.

And you did not on that occasion see Pergami speaking to your servant? I cannot recollect whether he did or not; I do not recollect whether my servant was in the room or not.

Was it that night you supped with her royal highness? It was the same.

What was the company at supper? I do not know their names; I think colonel Vassali was there; they were all unknown to me except William Austin.

Were you with her royal highness for a considerable time before supper that night? Two or three hours.

Did her royal highness say any thing to you about the company that was to be at supper that night? Not a word.

Do you remember any singing at supper that night? That lady I mentioned sung, but it was not at supper.

When did that lady sing? She sat down at the piano forte and sung a song, by desire of her royal highness.

Did you ask her royal highness who that lady was? No, I did not; I do not know her name to this day.

Do you know whether she was of any profession? I do not know; I do not know who she was.

Before you first got the recommendation from the chamberlain of Pergami, did you see him in attendance about the inn at Milan? No.

Did you make any inquiry whom he had served antecedently? Mr. Sicard was desired to make all the inquiries respecting his character, after the first recommendation by the chamberlain.

Do you know, of your own knowledge, whether inquiry was made of the person whom he had previously served, relative to his character? I do not know any thing on the subject.

You have said, that on your arrival at Naples, the first night it was agreed you should go into lodgings the next day, with whom was it agreed? With her royal highness; we came and told her our rooms were so bad, we must either have other rooms or find lodgings out of the house: there was an upper floor in the house; I understood the gentleman who lived in it was asked to give it up; he could not give it up, and therefore we went into lodgings. We did not go into lodgings the next day, we could not find them for a day or two.

Earl of *Darlington.*—Were you the person who went to ask for the passports for her majesty at Rome? No, I was not; the passports were asked for before I came to Rome.

Do you know who was the person who was sent for the passports? I do not know; I think it was Mr. Dodwell.

Earl of *Belmore.*—You had known Pergami in the situation of courier to her majesty? Yes.

Afterwards he was promoted to the situation of chamberlain? So I heard; it was not while I was in waiting on the Queen.

Do you know whether any further rewards have been conferred upon Pergami by her majesty the Queen? I know nothing but what I have heard from general report.

Lord *Combermere.*—Was Pergami walking behind her royal highness on the terrace, or how? He was walking a little way behind her.

As servants usually do behind their mistresses? Yes.

What impropriety did you conceive there could be in that? I did not conceive there was any impropriety.

Why then did you give that advice to her royal highness, if you conceived, as you have now stated, there was no impropriety in Per-

gami walking behind her royal highness? Because I understood there was a person sent as a spy upon the princess, and he might put that down as an impropriety, though I did not think so myself.

Can you state who was the person so pointed out to you as a spy? The letter did not contain the person's name, but I was told afterwards who it was by a gentleman at Naples.

The witness was directed to withdraw.

Then Sir *William Gell* was called in, and having been sworn, was examined by Mr. Williams, as follows:

You are chamberlain of her majesty the Queen? I am.

How long have you been in the service of her majesty? From about a month before her majesty went abroad.

Did you accompany her abroad? I did.

To Brunswick? Yes.

And thence into Italy? I did.

Do you remember a courier being discharged when you arrived in Italy? I do.

Where was that? I believe he was discharged at Florence; but it was agreed he should be discharged when we were at Milan.

Did you make any application to any person for another to succeed him? I forget whether I made an application, or whether the marquis Ghisiliari came and offered a person to us.

Had you a communication with the marquis Ghisiliari upon the subject? I had.

Did you communicate to her royal highness what was communicated by the marquis upon the subject of the person he recommended? I believe I did, most likely I did.

Who was in fact recommended? A person of the name of Pergami.

What recommendation did the marquis give of Pergami? He said he had known his family.

Did you communicate this to her royal highness? I believe so.

By a *Lord*.—Are you certain of it? I am not quite certain.

Mr. *Williams*.—Were you employed by her royal highness at the time, to make inquiries of the marquis on the subject? Oh certainly

Upon recollection, did you or did you not report to the Queen, the princess then, the account you had received from the marquis of this person? As far as to say that he was a proper person.

Are you to be understood that you mentioned to her royal highness the recommendation given by the marquis? Mentioning, I cannot say but in conversation, what had passed in conversation, but not as a decided embassy to her royal highness upon the subject.

In conversation in any manner did you mention to her royal highness what had been reported respecting Pergami by the marquis? The conversation passed when her royal highness was in the room, and she must have heard it.

The marquis, the princess of Wales, and you were in the room together? The marquis mentioned it very often.

Did the marquis ever mention the subject of Pergami, and the recommendation of him, in the hearing of the princess? Certainly.

Upon those occasions, or any of them, when her royal highness was present, what recommendation of Pergami did the marquis give? He said he had known his family, that it had fallen into distress from the circumstances which attended the French revolution; that as to the man himself, he could answer for him being perfectly honourable, honest, and trust-worthy, on every occasion on which he might be employed.

Can you recollect whether he stated any thing more in the recommendation of Pergami, in the presence of her royal highness? He stated that, he was above the office into which he was about to enter, and that he hoped, if he behaved well in the family, as he had no doubt he would, he would be gradually advanced.

Did you ever see the marquis Ghisiliari and Pergami together, either in the same room or meeting by accident in the street? I remember when we quitted the marquis Ghisiliari at the Piaçenza, being myself already in the carriage, that I saw the marquis Ghisiliari take leave of Pergami.

Mr. Parke objected to the admission of any evidence as to what passed between Pergami and a third person.

The Witness was directed to withdraw.

Mr. *Denman* maintained, that such an objection was quite untenable and inapplicable in this case, as the estimation in which Bergami was held by persons of rank and respectability in his own country was relevant and necessary evidence, in order to repel the libellous matter contained in the bill before the House, from which it would appear, that he was quite a despicable person. For this purpose, he proposed to examine the witness as to the manner in which Bergami was regarded and treated by the representative of the Austrian government in Italy. He hoped, then, that their lordships would not allow any technical exceptions to interfere with the important object on this occasion of ascertaining the truth and administering justice.

Mr. *Williams* argued, that no such exception as was urged by his learned friend on the other side, could be sustained upon any technical principles, independently of the broad ground adverted to by his learned friend, who had last addressed their lordships; for it was not sought to obtain from the witness any words uttered, or any conversation which might have passed between Bergami and the Austrian chamberlain, but merely how the latter treated the former upon their separation at a particular

time. Suppose that he (Mr. W.) should have had the honour of sitting at table with any of their lordships, if it were only as a mute or an *umbra*, and that he should happen to be charged in Italy, or any other country, with being a contemptible fellow, would it not be allowed to him, by any fair tribunal, to adduce the fact of such an association, in order to repel the charge? So, by analogy, he contended, that the evidence which had been just tendered was quite admissible, even upon technical or tradesman-like principles.

Mr. *Parke* rested his objection upon technical principles. The treatment which the chamberlain alluded to might have given to Bergami, must amount merely to an expression of opinion, and as that expression could not be received in evidence if tendered by word of mouth, he could not subscribe to its admissibility, when presented in the shape in which the counsel on the other side sought to introduce it.

The Earl of *Liverpool* thought, that as the chamberlain alluded to was dead, the House had no other way of coming at the fact, but by admitting the evidence now offered.

The Counsel were informed, that the manner in which this person was received in society was evidence, but not conversations between other persons on that subject, unless it was shown that those conversations were communicated to her majesty.

The Witness was again called in, and asked,

Be pleased to state to their lordships in what manner the marquis Ghisiliari conducted himself towards Pergami when he took leave of him? Pergami was, I believe, about to mount his horse; the marquis Ghisiliari being in his uniform as chamberlain of the emperor of Austria, and with his key as chamberlain, denoting what was his employment at the moment, took Pergami round the neck in the street, and kissed him twice before all the people; which we observed, as it was a singular thing when people were just come out of England, though a common custom in that country.

When you say the common custom in that country, is it the common custom between equals and gentlemen? Between equals, and perhaps not otherwise.

Among the higher ranks is it not the custom? It is the common custom among gentlemen.

Do you remember the princess of Wales and her suite arriving nearly at Naples, approaching Naples? Certainly.

Was she met by the then king Joachim? At Aversa.

That is a small distance from Naples? About six miles.

Do you remember whether the house to which her royal highness went at Naples was sufficient for her and her suite? It was not sufficient for the suite, though it was a very good house.

Was there room enough for them there? There was not.

Do you remember whether her royal highness was called upon by the queen of Naples the following morning? I believe she was.

Do you remember how her royal highness disposed of that evening after the call from the queen of Naples? I remember very well, because I attended her myself; her royal highness was invited by the queen of Naples to a concert in the palace.

Do you remember how late her royal highness remained at the concert? I should think between half past eleven and twelve was the time when she quitted it.

Do you remember any thing with respect to the state of the Queen at that time, at the concert? No, nothing particular.

As to her being tired? Tired, exceedingly tired and annoyed with the length of the concert; it was a very long concert, and very tedious.

On the following evening do you know where the Queen went? I do, because I was in waiting.

Where to? To the theatre of San Carlos in state.

What company was there in particular? I remember every body that was there; it was in the state box of the theatre, which was splendidly illuminated for the princess of Wales; the company was the king and queen of Naples and the princess of Wales.

What was the entertainment? It was the Opera of Medea, and the ballet I remember also.

How long did her royal highness remain? I remember very well, because I was very lame, and had to stand behind her royal highness the whole night, and it must have been at least twelve, if not half past twelve.

Do you remember the manner in which her royal highness went back from the Opera? In the usual manner, in her own carriage in state, attended by myself and those of her household usually employed on those occasions.

Was there not a garden nearly attached to the house in which her royal highness resided at Naples? Yes, there was.

Do you know whether there was any alteration in that garden, either in transplanting trees or improvements? The garden had been cleaned up, and the trees nailed against the wall; they were in a confused state, lying over the paths, which is customary in that country.

For what purpose had there been workmen in that garden? I saw workmen nailing up trees that had fallen from the walls over the paths.

You saw that yourself? Yes, I did.

How soon was that after the arrival of the princess at Naples that you recollect the workmen being in the garden? That I really cannot tell.

Do you remember an entertainment being

given by her royal highness to Joachim the king? Exceedingly well.

Were you present? I was in waiting again myself.

Do you remember at any particular part of that entertainment, there being the ceremony of crowning the bust of the king, or any thing of that sort? I remember it perfectly well.

Just state what it was? The company had expected that something was to be seen at the opening of a certain door; after a long time the door did open, and there appeared two Neapolitan ladies, the duchess of Civitela and the countess of Derri; I think the duke of Casarano, with a trumpet; the princess of Wales came down with a wreath of olive or of ivy, of olive I think, and placed it upon the head of a bust; the door opened, as it might be so; the scene was shown, and the door closed in as much time as I do it, and no longer.

Do you remember the particular dress of the princess of Wales upon that occasion? I remember it perfectly well; it was a dress which I should say is best exemplified by the figure of the Townley Curiatius in the British Museum, or Mr. Hope's Minerva; it was meant to imitate one of those statues.

Was there any thing indecent or indecorous in the style or nature of that dress? The whole world is capable of judging; those statues are very much draped, completely covered.

In point of fact upon that occasion was the dress of the princess of that description? As nearly imitated as dress of that kind can be imitated, as it appeared to me.

Were the duchess and countess you have mentioned to their lordships in an appropriate dress also? Something in the same sort of dress; but the door was open so short a time, that it was almost impossible to discover any thing with accuracy; it was almost like a flash of lightning; it was meant to represent that.

Did you attend the princess further than Naples or not? I remained at Naples.

What was the cause of that? Because I was tired of travelling with the princess, particularly in the winter; and I really was not able to attend her in the way in which she travelled.

Why not? Because I had the gout very frequently, and had it very often while I was travelling with the princess.

Did you see her royal highness again after that time? Several times.

Where first after her royal highness quitted Naples? On her return from her tour in Palestine, I met her on the road, and accompanied her to Rome, and then went into waiting.

Did she apply to you to come into waiting? It became a matter of course; I do not remember the words of any application.

How long did you remain in waiting at that time upon her royal highness? As long as her royal highness remained at Rome.

Do you remember whether upon that occasion any persons of distinction waited upon her royal highness? I remember very well, as I presented several myself.

Mention any that occur to you now? The count de Blacas the French ambassador; I remember it from a remarkable circumstance, that he introduced himself with the ministers of the house of Bourbon. I remember observing, that the ministers of the house of Braganza, and others, came rather in a manner extraordinary, because they were called the ministers of the house of Bourbon, they announced themselves as that on the staircase; the Portuguese minister.

In what year was this? It was on her royal highness's return from Turkey.

Had she been some time returned from the long voyage then, do you know? No, because I met her on the road.

In the year following, were you again in attendance upon her royal highness? I was in attendance upon the princess when she was at the Villa Ruffinelli, at Frascati, and at the Villa Brandi the same year.

How long did you remain in attendance upon that occasion? About three months, rather more than less.

At that time do you remember whether any persons of distinction visited her royal highness? A great many.

What was the reason why you did not continue longer in attendance upon her royal highness than the three months you have described? Because her royal highness was going to the North to settle some of her affairs, and she gave me leave to go to Naples.

Where was her royal highness going to? She had an idea of going to Como; a large party was invited to go with her royal highness to Como, the prince of Saxe Gotha, and several other persons; but she found it convenient to sell the Villa at Como, and that put off the whole party; the princess Dietrichstein was also to be of the party.

Have you been in attendance upon the Queen after that time, till lately? I have been in attendance only for a few days, while the princess as Queen passed through Rome the last time.

Upon that occasion were you employed to apply for a passport for the Queen? No, I was not; that had been done before by Mr. Dodwell.

Did you yourself see the passport? I saw the order for the post-horses, which I considered as a passport, signed by the secretary of state.

Do you mean that you saw the secretary of state himself sign it? I saw the order for the post horses, with the secretary of state's name, Gonsalvi, written under it; and several other gentlemen were called to witness the same fact, whom I can name if it should be necessary.

That passport is left at the first stage you come to? I believe it is given to the postmaster.

You did not get it along with you further than the first stage, at all events? I believe it is given to the post-master, which was the reason why four gentlemen were called to witness the manner in which it was made out.

How was it made out?

The *Attorney General* submitted, that his learned friend was now entering on a course of examination that was objectionable on two different grounds. In the first place, the contents of a written instrument were not, by a fundamental principle of law, admissible in the shape of parole evidence. At the same time he thought it manifest that the circumstances to which this part of the examination was directed were not material to the question which their lordships had to try.

Mr. *Denman* said, that in answer to these objections, he had to remark, that the rule of law, as observed in practice, was, to receive evidence regarding the contents of a written instrument, if that evidence was shown to be material to the general issue. It had already appeared that, conformably to usage, the passport in question was left with a post-master in Italy.

The Earl of *Liverpool* begged to remind the learned counsel, that it was not a regular passport, but an order for post-horses.

Mr. *Denman*. — It operated as a passport: according to the strictest rule observed in the strictest court, he was entitled, after previously indicating the materiality of the question, to render evidence as to the contents of any document. If his learned friend, Mr. Williams, were allowed to pursue his examination, he would assure their lordships that very important facts would be discovered. He would undertake to say, that the questions put by his learned friend, upon this subject, were most material, as affecting the interests of his royal client. It would be proved, if their lordships received the information, that in this passport, or post-horse order, or document of some kind, her majesty was treated by the secretary of his holiness in a very extraordinary manner. They would find, that his excellency thought proper to describe her in that document as the "Princess Caroline of Brunswick," after being fully apprized that she had become Queen-consort of England. The pope's secretary of state waited not for any judgment of the British legislature,—he asked not for any act of parliament to dethrone and degrade a queen, in order to justify his conduct. He would undertake to say, that, if not restrained, a great deal more of important matter would be adduced. It might possibly appear, that the secretary of his holiness had acted in this way at the instigation of the Hanoverian minister at the papal court. It might be shown, that all the means which were of usual force to corrupt and influence the human mind had been employed with an activity truly remarkable. The point, however, on which he now rested, was, the strict, fair, and legal admissibility of such evidence, in this stage of the proceeding. Even if a doubt existed on the technical propriety of the question, yet its importance to the elucidation of truth, its importance to the honour of a Queen charged with the crime of adultery, and its importance to the honour and happiness of the whole British nation, were considerations that would necessarily impress themselves on their lordships' minds, and exercise a salutary influence on their judgment.

Mr. *Williams*, on the same side, argued, that supposing the preliminary objection to be of that kind that must prevail in the courts below, or in the trial of an ordinary case, it was not a complete or valid objection in the present instance. But in every court of justice the materiality of evidence was a consideration to be entertained. No rule of admissibility was so strict as to exclude evidence that might affect the real merits of a case. It was always open, after the reception of such evidence, to determine whether it should be allowed to operate on the judgment which was to be ultimately pronounced. The present question came distinctly within the latitude sanctioned in courts of subordinate jurisdiction; and where, if a written instrument were shown to be lost, parole evidence of its contents was regularly admitted. No doubt could be entertained that a document had in this case been left abroad—left in a part of Europe where their lordships could exercise no control, and from which there were no positive means of recovering it. It was like a document shown to be lost, or to be no longer in existence. These were the considerations which seemed to him applicable to the first and only question which it was now necessary to discuss—the question of admissibility: whether the evidence was material or not was a subject for subsequent consideration.

The *Attorney General*, in support of his objections, thought it extremely unfortunate that, whenever, in the discharge of a duty which he could not abandon, he did object, on principles of law, to the course which was pursued on behalf of the defence, his learned friends should break out into invective, and, instead of a distinct answer, should appeal to the passions or fancy of their audience. It was said that his objections were technical; but was a man in his situation to be so told whenever he found it necessary to interpose? Advantage had been already taken of his not interposing at previous stages of this proceeding; the *argumentum ad hominem* had been more than once addressed to him, and his silence interpreted into concession. Why was he to be required by his learned friends to deviate from the usual course, or to discard rules of evidence wisely framed for the discovery of truth? One of those fundamental rules was, that no verbal testimony, no parole evidence as to the contents of a written instrument, should ever be received, till it was shown that the instrument was lost or destroyed. It was doubtful, he conceived, whether, under any circumstances, evidence with regard to the document now in question could be admitted; but it never was yet heard of, in a court of justice, that, upon a mere suggestion that a post-office order was left abroad, it was right to hear a witness go into a narrative of its contents. In a case of no unfrequent occurrence, that of the loss of a bank-book, an examined copy was always required. The other side was bound to show that due pains and diligence had been used for the purpose of recovering possession of the document. If their lordships would refer to the question of materiality, they would find it difficult to discover of what importance it was to this case to show how a particular passport, or order for post-horses, had been drawn up by the pope's secretary of state. It was his duty to watch the course pursued by his learned friends on the other side: their lordships could not judge at once whether evidence thus tendered might not be material; and the only security was in adhering to the known and established rules of evidence. Whatever might be the remarks or animadversions to which he subjected himself, he was resolved to pursue a straight-forward course; and he trusted their lordships would excuse him if he did occasionally interpose, and remark the deviations that were attempted from those rules of evidence to which he had alluded. The evidence which his learned friends now tendered could not be received if those rules were adhered to. The evidence against the Queen had been limited in respect of time, and all the circumstances referred to in that evidence had occurred long before the period when the document in question first came into existence.

The Counsel were directed to withdraw.

The *Lord Chancellor* observed, that the question just argued between the counsel at the bar was one of very great importance in itself, and also as it respected the merits of the present case. It was impossible, with justice to the case, to apply a rule to one part of the evidence, and not to enforce the application of it to every other part. If it was thought right to depart generally from the practice of the courts below, the departure ought to be complete. The first question was that of admissibility; and, according to every legal principle of evidence, the proof of the loss or destruction of a document was to be made out before any parole testimony relative to it could be admitted. There were innumerable cases in which documents had been lost, the contents of which were most material to a clear understanding of the whole merits; but every court proceeding upon the known rules of evidence required it to be shown that application had been made, and all diligence used, for their production, and in vain. He should, therefore, propose that a question be referred to the Judges upon this subject; and that it should be framed in something like the following mode:—"Whether parole evidence, as to the contents of a passport stated to have been left abroad, could be admitted without some previous general testimony that application had been made; or, if not, that it could not have been made with any prospect of success?" If the learned Judges should decide in the negative, the second question of relevancy or non-relevancy would be disposed of. He would only now add, that it was impossible, in this stage of the proceeding, to conduct it so as to attain the ends of justice, unless they protected the witnesses up to its conclusion. He was sure no noble lord would have applied the epithets of corrupt or perjured to any witnesses in the midst of a pending process.

The Earl of *Lauderdale* said, it seemed to him to be assumed, that an order for post-horses was a passport, or else that it could be evidence, in the absence of a passport; both of which propositions he was disposed to deny. A passport was given in the first instance, and, from it, an order for post-horses was made out; but if their lordships wished to know what was the tenor of the passport, he did not believe that object could be attained by a mere reference to the post-horse order. With respect to the possibility of the passport having been destroyed, that was a preliminary point, which their lordships ought to decide. If it was in existence, it would be the proper evidence as to the designation that had been given to her majesty.

The *Lord Chancellor* observed, that in the question which he had recited, he had mentioned the post-horse order, with reference to its being the next best evidence, in case the passport could not be produced. The whole matter would be for the consideration of the learned judges.

The Marquis of *Lansdown* said, it appeared to him, that it would be more difficult to get any information as to the post-horse order, than it would be to procure information relative to the passport; and for this reason; because the passport remained in the hands of the person who got it, and that person might be asked, whether he had the document in his possession, or whether he had destroyed it? But it was not so with the order for post-horses, which was left with the post-master, as his justification for granting those horses. The individual who presented the order had afterwards nothing to do with it. He begged leave to state, contrary to the opinion of the counsel at the bar, that a post-house was not like a court of record, where every paper was preserved. No reason existed for preserving papers there, as they were preserved in other offices. The post-master's only motive, in preserving the order for a short time, was, lest, in the course of twenty-four or forty-eight hours, he might be called on by his government to show why he had afforded facilities to any particular parties who might have passed through the country. If, as had been stated, all those orders were preserved, the whole library of the Vatican would not contain them in a very short time, so great a number of foreigners were continually passing through Italy. The case, therefore, resolved itself into this:—whether it was absolutely necessary, that the evidence should be given in the shape of a document? If it existed, it could not be suspected that such a document would not be readily produced; if it did not exist, he could see no reason for refusing parole evidence of its contents.

The Earl of *Lauderdale* said, the practice throughout Europe was, to send the passport to the post-house, for the purpose of having the order made out from it. He must contend, that, before it was established that such a document was tantamount to a passport, evidence that no passport had existed should be given; for this, he believed, was the only case where an order for post-horses was granted without a passport being previously exhibited. The thing, he thought, was impossible; and he conceived they ought to have a preliminary examination, in order to ascertain that fact.

The Marquis of *Lansdown* observed, that the view in which he understood the learned counsel to ask their lordships for liberty to give evidence of the passport, was in order to show the style and character in which the party travelled—a fact set forth in that document, which had been signed by the cardinal secretary of state. As to the question, whether all persons, wanting post-horses, must exhibit a passport, the noble earl would find, that the practice varied in different states, and even in the same state, at different times.

Lord *Ellenborough* was of opinion, either that the original document should be produced, or that evidence should be given, in the first instance, of its destruction.

Lord *Erskine* said, as he understood the subject, it appeared that the evidence which was sought to be given, went to this point—namely, whether cardinal Gonsalvi, in a certain paper signed by him, treated the Queen of England with due respect? Whether he did or did not deny to her that honour which she had a right to claim? Now, it appeared to him quite impossible that this could be shown by the production of an order for post-horses. Where was it to be had? In the courts here, an original copy, an office copy, or an examined copy of a document, might, according to the case, be procured. But what would one think if a post-master were asked for an office copy or an examined copy of this order? The ques-

tion was, whether this was not a point that might be filled up by some examination? If, by any diligence of that kind, the difficulty could be removed, he conceived their lordships ought to allow it.

The *Lord Chancellor* conceived, that the suggestion of his learned friend, if agreed to, might create considerable inconvenience.

The Earl of *Liverpool* wished to say one word, without any desire to provoke discussion. He alluded to the second part of the objection, which was connected with the relevancy of the matter meant to be proved in evidence to the case now before them. He would ask, how that matter could, in any point of view, bear on the present case, unless they could connect the circumstance referred to with the government of this country. How the conduct of the pope or cardinal of the court of Rome, as to the treatment they had given her majesty, if that treatment were not connected with this government, could be considered as affecting this question, he could not perceive. He really thought the conduct of those individuals had nothing to do with the subject under consideration. He stated this, not as an objection on his part—for he was anxious to raise as few of those objections as possible—but he merely threw it out as a suggestion for the consideration of others.

The Marquis of *Lansdown* differed in opinion from the noble earl. He thought it would be most material to the Queen's case that the point in question should be proved. The noble earl stated, that it could be of no consequence if the conspiracy, of which it was said to form one indication, was not brought home to this country. But this was not a correct view of the circumstance. There might be a conspiracy formed in another country against her majesty the Queen, and its result might be the preferring of these very charges; although, at the same time, this government might not be at all privy to the existence of such conspiracy. He maintained, that it would be material for her majesty to prove a circumstance of this nature. Would their lordships refuse to hear evidence of such a conspiracy, because counsel at the bar stated that he could not bring it home to this government? Would they reject evidence, when counsel stated that he had the means of proving a conspiracy against the Queen in another country, which at a subsequent period was adopted by this government, because he could not bring its origin and growth home to them? What he understood the counsel at the bar to say was, that he could connect this conduct of cardinal Gonsalvi towards the Queen with an application made to him by the Hanoverian minister, and that he believed this application formed part of a conspiracy, or something like a conspiracy, to degrade her majesty's character. It was right, therefore, he thought, to go into proof of the fact.

The *Lord Chancellor* said, he would not press their lordships to refer the question to the learned judges. He remained of the same opinion that he had originally advanced; and as he was extremely desirous to stand right with their lordships, he would re-state what that opinion was. His idea was, that, if an order for post-horses be written, its contents could not be proved by parole evidence unless testimony was given that it had been destroyed, or that it had been refused, after proper application was made for its production.

The Counsel were again called in; and were informed, that in the opinion of the House, the order for post-horses could not be given in evidence by parole, unless it was proved not to be in existence, or that an application had been made for the production of it, which had been unsuccessful.

The Examination was then resumed.

When you saw the Queen at Rome, upon the late occasion to which the question has alluded, did you see Pergami? Several times.

Did you see Pergami as well in the presence of the Queen as when she was not there? Yes, several times.

In the demeanour of the Queen towards Pergami, or of Pergami towards the Queen, did you see any thing in any degree indecorous or improper? Not in the least.

In what manner did Pergami conduct himself towards the Queen upon the occasions when you saw them together? With the most marked attention, and, generally speaking, as one should expect, what he ought; he did every thing which he ought to do, as it appeared to me, nothing singular or particular.

Was the countess Oldi in attendance upon the Queen at Rome at this time? The last time, certainly not.

Had you seen her previously? Twice; whilst I was in waiting at Rome the countess Oldi was lady-in-waiting to the princess.

During what length of time was the countess of Oldi in attendance upon the princess when you were? At the Villa Brandi alone, three months.

Had you an opportunity of judging of the conduct and demeanor and manners of the countess Oldi? Yes, I had a very good opportunity, for I generally sat next her every day at dinner.

Is the countess Oldi a person of low and vulgar manners? Certainly not.

What is the appearance and demeanor of the countess? A very decent, rather good-looking, respectable modest lady.

Upon any occasion when Pergami has come to see you, or you have seen him, when the Queen has not been present, what has his conduct and demeanour been towards you as to manner? I should say, on all occasions rather more respectful than was necessary; he generally required to be pressed to sit down; that sort of behaviour.

You have been for some time, in Italy? I have been, at different times, almost ever since the Queen first went abroad.

According to the habits of that country, is it an unusual circumstance for men-servants to go into a bed-room while the ladies are still in bed? I believe not at all uncommon; I believe it is very usual.

Do you know the baron Ompteda? Yes, I do.

Have you known yourself, of your own knowledge, of his dining with the Queen, when princess of Wales, at Naples? Certainly; I have met him at the princess's table at dinner.

Once, or more than once? I cannot remember more than once at this moment, I mean at her table; I have met him at other tables.

You have been in the East, have you not? I have.

Have you been in the habit of seeing a moorish dance in the eastern countries? Not only in the East, but in Spain and Portugal.

Describe this dance generally, if you can? [A laugh.]

Lord Chancellor.—You should recollect, Mr. Williams, that sir William Gell has got the gout. [A laugh.]

Can you give any description, verbally, of the manner in which it is usually performed? I believe every body in London has seen the Spanish bolero dance on the theatre; it is something like that; in one part of the exhibition the two performers run up together, sometimes in an attitude of defiance, and sometimes in an amorous attitude; the same dance prevails over all the south of Europe, and every body sees it without making any remarks upon it, ladies and gentlemen, from Madrid to, I believe, China; and people may see it both in Rome and Naples.

During the time that you were at Naples in attendance upon the princess, were there many families in the habit of visiting her? A great many; every body that was there, I believe.

The Neapolitan nobility? All the Neapolitan nobility, and all the English nobility that were there.

Can you tell whether the English nobility, of which you have been speaking, were presented, or attended at the court of the then king of Naples, Joachim? I believe every one, without exception.

Name any of those who were in the habit of attending either the court or the balls of Murat, or hunting parties, or any of his entertainments? The marquis of Sligo, the marquis of Conyngham, the marchioness Conyngham, lord and lady Oxford, lord and lady Holland, and many others; lord and lady Llandaff, lady Elizabeth Forbes.

And many others that you do not remember? Yes; I can remember them in a little time: but every body that was there.

Was it there or at Genoa that lord Exmouth dined with the princess? I do not know anything of lord Exmouth.

When you were at Rome, upon the last occasion do you know whether Pergami was received in the families of the Roman nobility? That I do not know at all, I do not believe that he ever went out.

Cross-examined by Mr. *Parke.*

How long were you at Rome the last time you were there? A few days only.

How long were you in attendance on her royal highness at Rome, after her return from the long voyage? The whole time she was there; I do not recollect how long.

How many weeks was it, or how many days? I should think a very few days.

You are understood to say, that after the expiration of those few days you quitted and went to Naples? Yes, I asked leave of the princess, and went to Naples.

You are understood to say you accompanied her royal highness when she first went to Naples, and formed part of her suite? I did.

Were you with her when she arrived at Naples? I was.

What time of the day was it? It was in the evening.

Was it late in the evening? No, not late in the evening, it was day-light; about sun-set I should say.

You say there was a garden behind the house where some work-men were employed? There was.

Did you yourself ever see the princess walking in that garden? Yes.

Did you ever see Pergami walking in that garden? Yes, I did one morning.

Was the princess there at the time? She was.

Were they walking on the terrace? They were.

How near was Pergami to the princess? About as near as I may be to you [about five feet.]

Was he walking at the same time with her? Yes.

How long did you see them walking together on the terrace? Scarcely half a minute.

Where were you at the time you saw them? I was in another wing of the house.

Did you see any body else in the garden at the time? Nobody but a man who was nailing up certain trees that had fallen across the path.

You were at a masquerade with the princess at a house of the king? I was at a masquerade, and was in waiting.

Were you there the whole time? I was there the whole time, and very much fatigued with it.

Did you see Pergami there? I believe I saw him there with the rest of the servants.

Where were the servants; what were they doing when you saw them? They were generally waiting upon the company; handing ices, sweetmeats, and other things.

You did not see him there at any other time than with the rest of the servants? No, I do not recollect that I did.

Did you see her royal highness when she was in a Turkish dress? I believe I did, but I have not a very distinct remembrance of it.

When you saw her in a Turkish dress, did you see any other persons dressed as Turks? I believe there were a great many people dressed as Turks in the masquerade.

Was she by herself at that time, or forming a part of a group when you saw her? That it is really impossible to say at a masquerade, it appears to me.

You cannot recollect whether you saw her alone, or with a group of Turks? No, I really cannot.

Did you attend her royal highness up-stairs when she changed her dresses? I was once with her up-stairs in the course of the evening.

Did you accompany her down afterwards? I should hardly think I did; I might come down the stairs with her, but not handing her.

Do you recollect in what character she was at that time? No, that I really do not.

Examined by the *Lords*.

Lord *Erskine*.—You have said, that notwithstanding the opportunities you have described of observation, you never saw any impropriety whatsoever in the conduct of her royal highness, or of Pergami and her royal highness towards each other? No, never on any occasion.

Supposing it had been true that there was a criminal intercourse between her royal highness and Pergami, and that Pergami had acquired a complete dominion over the mind and body of this illustrious princess, do you think it probable you should have oberved nothing that gave you an indication of that kind?

Mr. Solicitor General submitted to their lordships whether the question could be put.

The question was waved.

Lord *Ellenborough*.—Did you ever observe any thing in the conduct of the princess of Wales towards Pergami, in her conduct, manners, conversation, or looks, to induce you to entertain an idea that there was an adulterous intercourse between them? Upon my honour I never saw the princess speak to Pergami but on matters of business, though I was in the house for three months at once with them.

Can you give a more distinct answer to that question?—I never did.

Was there any thing in the manners of Pergami which made it disagreeable to you, as a gentleman, to share with him the duties of chamberlain? Quite on the contrary; he was remarkably attentive to me, and would have handed me down stairs with candles if I would have let him; I was obliged to explain to him, that it hurried me, being lame, and to request he would let it alone.

Do you consider, that that conduct, on the part of Pergami, was the conduct of a gentleman? Perfectly so to me.

Did Pergami, while you were in the service of her royal highness, take more than a fair share of the duties of chamberlain? Certainly not.

Did you observe any thing in the conduct of Pergami towards the princess, which would have been different from the conduct of any English chamberlain? Nothing, but that he was more attentive.

Earl of *Darnley*.—Can you state to the House whether, in point of fact, orders for post-horses are preserved or not? I really do not know whether they are preserved; they are given before you set out from the city; as for instance, from Rome an order for post-horses is, I believe, equivalent to a passport, as in the case of the Queen; that order is delivered to the post-master, who without it would give you no horses at all; consequently the passport is of no use till you have obtained that order.

Have you not every reason to believe, that the order for post-horses, which has been referred to, would not be in any case forthcoming? From what I know of the Roman government, I am perfectly convinced it would not be forthcoming, but that is merely from private information, knowing how that order for post-horses was got up.

Earl of *Liverpool*.—Are you aware, or do you now know the fact of Pergami being or not being a married man? I believe he is a married man, I do not know it.

Do you mean to say that is your present belief, or that was your belief when Pergami was originally placed in the service of her majesty? I believe somebody told me so at the time, I am not sure whether it is correct or not.

Have you not seen a child that has been with the Queen of the name of Victorine? I have.

Do you not know that she was the daughter of Pergami? She was called the daughter of Pergami, but whether she was the daughter of Pergami, or not, I do not know.

Lord Chancellor.—On the return of the princess from the Opera at Naples to her own house on the second night she was at Naples, do you know whether she retired to her chamber immediately, or where she went? Her royal highness retired to her own chamber: I was in waiting, shut the door, having made my bow, and went out; I believe her royal highness went to bed immediately.

Earl *Bathurst.*—You have said you saw the princess and Pergami walking on the terrace, and that there were also workmen there; was that soon after your arrival at Naples? I have said before I am not quite clear as to the time, but I should think not the earlier part.

Lord *Enniskillen.*—What was the hour of the night that the Queen returned from the Opera, and that you left her at her chamber-door? It must have been towards one o'clock at the time she got to her own door; very late indeed.

You described that the Queen was dressed in a robe resembling a Grecian female, could that robe be put over any other dress she had that night, without undressing? Not only it must have been so, but I have a clear recollection of the dress her majesty had on under it: a dress perfectly plain, that came up to the neck, was very short, and had no train.

Earl of *Lauderdale.*—Did you attend the princess of Wales to the Villa Brandi and Ruffinelli? I was with the princess of Wales perhaps three days at Ruffinelli; I then came back to Rome, and attended her to the Villa Brandi, where I staid with her all the time she was there, being about three months.

Do you remember the date of the princess of Wales being at Ruffinelli and the Villa Brandi? It was at the time she was at Rome, about the year 1817.

Can you state about what months of that year? I think I can, about the months June, July and August.

Do you remember whether Louis Pergami was there? He certainly was, some part of the time.

Do you remember whether any other persons of Pergami's family were at Ruffinelli or Brandi? There was the countess Oldi, who I understood was his sister.

Do you remember any other? I really do not at this moment.

Was there another sister, named Faustina? Not that I ever heard of.

You never saw her? I never saw her, knowing her to be either Faustina or his sister, certainly.

Did Louis Pergami dine at table at the Villa Brandi? Sometimes he did.

At the table with the princess? At the same table.

Did you ever see Pergami's mother? Never, to my knowledge.

You do not remember having seen in the princess's service any other members of that family but Louis and the countess Oldi? I do not remember any others.

Earl of *Rosebery,*—Did you yourself observe whether the short dress her royal highness wore when she had that of a Grecian female was on her royal highness in the first character she assumed? It was impossible; it was only by being in the passage close to the door, when the door was opened, I saw the princess in that short dress upon which she fixed, as I imagined, and indeed as I am certain, all her other dresses.

You are certain that the first dress her royal highness wore was over that short dress? It could be no otherwise.

The question refers to that under-dress you speak of, coming up high, but as without a train, which you mentioned as being under the dress her royal highness wore when she assumed the character of a Grecian female; did you yourself know, that her royal highness wore that short dress during the first character she assumed? It must have been so, for it was a dress made on purpose for that; I saw her immediately before she went down as a Grecian female; it was impossible that she could have had time to take it off, before she appeared as a Grecian female.

A Peer.—Where did Pergami sit at table, when you were at table with him? I think generally somewhere on the left hand of her royal highness.

Did he sit next to her royal highness, or at a distance from her royal highness? Sometimes next to her, and sometimes at a distance.

When you were at the same table? When I was at the same table.

Did you sit on the opposite side of her royal highness, or where? I generally sat, if there was no company, on the right-hand side of her royal highness.

And Pergami on the left? Pergami sometimes the next to her on the left hand, and sometimes round the corner of the table; it was a square table.

When other company were present, did Pegami continue to occupy that place? That was just as it happened; sometimes, yes, and sometimes no, according to the rank of the people.

Lord *Falmouth.*—You have stated that Louis Pergami has dined at table when you were present, how often may that circumstance have occurred? It has occurred several times, but sometimes he was on business of her royal highness, and then he was absent from home; when he was at home, I believe he generally dined there.

What situation did Louis Pergami hold in the establishment of her royal highness at that time? I believe he was her royal highness's equerry at that moment.

Where might Louis Pergami usually sit upon the occasion, when he has so formed part of the company? I think generally at the other end of the table.

The following question was put at the request of *Mr. Solicitor General.*

When her royal highness appeared in a Turkish dress, did she or did she not wear trowsers? I happen to know what those trowsers were; she did wear trowsers, made in the form of Turkish trowsers; I beg to explain what they are, the trowsers that her royal highness wore, are very much like a common petticoat sewed slightly together between the legs at the bottom, such as are commonly worn in the Levant.

The following question was put at the request of Mr. *Williams.*

Could the terrace of which you have made mention, on which the Queen and Pergami were once seen walking, be seen from surrounding houses, as well as a great part of the house itself? From every house in the neighbourhood.

Lord *Brownlow.*—On those occasions, when the princess at the masquerade at Naples went up-stairs to change her dress, do you know whether any attendant was there to assist in changing her dress, and if so, who was that attendant? To say the truth, I believe she had a very great number of attendants; the door was opened and shut perpetually, and every body was in and out of her room.

Do you believe that Louisa Demont was one of those attendants? I do not remember her, I dare say she was.

Do you know whether Pergami was in attendance? I do not.

Earl of *Lauderdale.*—When you were at Ruffinelli, do you recollect Pergami being ill at any time? No, I do not.

You were not at Ruffinelli all the time that the princess staid there, were you? No, I was not.

The Witness was directed to withdraw, and the House adjourned.

HOUSE OF LORDS.

Saturday, October 7.

The Order of the Day being read for the further Consideration and Second Reading of the Bill, intituled, "An Act "to deprive her Majesty, &c." and for hearing Counsel for and against the same, Counsel were accordingly called in.

Then *William Carrington* was called in, and having been sworn, was examined by Dr. Lushington, as follows:

In what situation of life are you? I am sir William Gell's valet.

How long have you been in that situation? Nine years.

What were you before? It was the first situation I had as a servant.

What situation were you in before? I was in the navy,

In what capacity? As midshipman.

Did you attend sir William Gell the latter end of the year 1814, at Naples? I did.

Did you live in the house of the princess? I did.

Do you remember Pergami coming into the service of the princess? I do.

In what capacity? As courier.

Did his coming into the service of the princess as courier excite any or what jealousy? I never heard any.

Was there any thing said about it by the servants in the house?

The Attorney-general objected to this question.

The question was waved.

Was there any jealousy after he came into that service? I never saw any.

Do you remember the first night that you arrived at Naples? Yes.

Do you recollect where Pergami slept that night? I do.

Where was it? It was in a small room over the steward's room.

Who was the steward? Mr. Sicard.

Did he sleep in the same room the second night? No, he did not.

Do you know the reason that he changed his room? Because the room was so low that he could not stand up in it.

Do you remember the room to which he removed? Yes, I do.

Do you know the princess's room? Yes, I do.

How near was the room to which Pergami removed, to the room of the princess? It was about sixty feet.

Was there any other room between the princess's room, and Pergami's room? There were three rooms and a passage.

Can you tell who occupied those three rooms? Yes, I can.

State them? William Austin the first, Hieronimus the second, and Dr. Holland the third.

Are you to be understood that those three rooms intervened between the princess's room, and the room of Pergami? Yes.

Did any of those three rooms open into the passage? Yes.

Do you remember being at a masked ball at Naples? I do.

A ball given by the princess? Yes.

Do you recollect the servants appearing in any particular dress? No, I did not see them in any particular dress.

Did you yourself wait upon that occasion? I did.

Did you travel in the suite of the princess on the journey to Naples? I did.

Do you remember Mr. William Austin? I do.

Can you say where Mr. William Austin usually slept before you reached Naples? He slept in a room by himself when there was room; when there was not, he sometimes slept in her royal highness's room.

Do you know a person of the name of Majoochi? I do.

Did you ever see this person at Ruffinelli? I have.

Did you ever hear him mention the name of Ompteda? I have.

What did you hear him say respecting Ompteda?

The *Attorney General* objected to this question, and, the witness having withdrawn from the bar, proceeded to argue against it. The question was, whether the witness had heard Majoochi say any thing respecting baron Ompteda. He objected to any conversation between the witness and Majoochi, with respect to a third person, being taken as evidence. Whatever Majoochi had said of baron Ompteda could not be received as proof of any fact concerning that gentleman. Besides, he was not aware that Majoochi had stated himself to have had any conversation with the present witness; and unless he had been asked whether he had had any conversation with W. Carrington relative to baron Ompteda, no ground whatever was laid for the course of examination which he had interrupted. But, if even Majoochi had been asked such a question, still any conversation between him and the witness relative to the baron's conduct could prove nothing having any bearing on the case. In order, however, to justify the examination at all, he called upon his learned friends to show that Majoochi had been asked whether he had had a conversatien with Carrington, and had denied his having any.

The *Solicitor General* thought it quite clear that the question could not be put. Nothing was more fully admitted than that a witness could not be examined on conversations relative to facts collateral to the inquiry; and if the object was, to contradict the testimony of Majoochi, it had not been stated what question had been put to Majoochi which it was now wished to contradict. He apprehended that his learned friends were not entitled to refer to Majoochi's evidence in a general way, but that they must point out the particular statement they meant to disprove.

Dr. *Lushington* trusted he should be able to satisfy their lordships that the question ought to be put. If he understood the objection, it was twofold: first, that the proposed examination had reference to facts collateral to the inquiry; and, secondly, that supposing this not the case, that as no question had been put to Majoochi as to a conversation with Carrington, no question could be asked the latter with regard to that circumstance. Now, as to the first point, nothing was more easy to show, than that the subject of the proposed examination, instead of being collateral, had a direct and most important bearing on the inquiry. Was it possible to contend, that, to ascertain the fact whether Ompteda had not acted as a spy on her majesty, had suborned her servants, that he had broken locks, and forced doors, in order to steal papers, with the view of fabricating charges to affect the character, the honour, and even the life of the Queen—could it be said that an examination to prove that fact was not relevant to——

Lord *Redesdale* interrupted the learned counsel, and moved that counsel do withdraw. The learned counsel had no right to pursue the course of examination he proposed. He could not impugn the conduct of baron Ompteda by conversations which had passed between the witness and another person.

The *Lord Chancellor* observed, that certainly that could not be done.

Lord *Redesdale* said, the learned counsel was raising an argument on the subject of baron Ompteda's conduct; but he had no right to impugn any individual's character on a conversation between the witness and a third person. If he was prepared to show by evidence, that baron Ompteda's conduct had been such as he described, let him bring it forward. But to take the course he proposed to pursue at present, was to exceed those bounds of right and duty within which counsel ought to confine themselves.

Earl *Grey* wished to remind their lordships of the state of the case. The question which the learned counsel proposed to put had been objected to on two grounds: first, that it was collateral to the inquiry; and secondly, that Majoochi had not been asked whether he had any conversation with the witness Carrington. Now, if he understood the particular point to which the learned counsel was replying when he was interrupted, it was the first ground of objection. He was going

on to show that facts could not be regarded as collateral which related to the conduct of a person in breaking locks, suborning servants, and doing other acts with the view of affecting the character and honour of her majesty in reference to this inquiry. The argument of the learned counsel was not that the conversation in question would be evidence against Ompteda, though it might contradict Majoochi's testimony; but it was an answer to the assertion of the counsel on the other side, that the matter was collateral. It did not appear, therefore, that the learned lord was justified in saying that the counsel had exceeded the bounds of right and duty.

Lord *Redesdale* explained. If evidence was to be obtained of what Majoochi had said of Ompteda, it ought to be sought from Majoochi, in the first instance, and not from the person with whom he had conversed.

The *Lord Chancellor* would not enter into the argument, but he confessed it was the first time in his life that he had witnessed an attempt to prove the conduct of a third person by a conversation which a former witness was alleged to have held with the witness under examination. Had Majoochi been questioned as to what he had said to the present witness, it would have been a different matter. As things stood, it would be necessary to look back to what had been stated by Majoochi on this subject.

The Earl of *Lauderdale* referred their lordships to several pages in the Minutes, in which Majoochi had been examined with respect to his intercourse with baron Ompteda.

Lord *Erskine* rose to order, and suggested that the counsel at the bar should refer to the pages of the Evidence.

The Earl of *Lauderdale* said, that his noble and learned friend would not, perhaps, think him out of order when he knew on what account he referred to the evidence. He was of opinion that the question could be put. He wished to save her majesty's counsel the trouble of doing that by argument which was already done by evidence. In the pages of evidence to which he had referred, it would be seen that Majoochi was examined as to the imputed intrigues of baron Ompteda, and asked particularly, whether there was any talk among the household of the princess respecting the baron?

Lord *Erskine* said, his noble and learned friend was on the side which every impartial man must take; but still he thought it would be better to let the counsel go on with the argument,

The Counsel were again called in.

Dr. *Lushington* proceeded with his argument. He said that, when their lordships interrupted him, he was about to add that he certainly never conceived that the declaration of Majoochi could be evidence of what Ompteda had done, but that he meant to show that the conduct of Ompteda was not collateral, but a direct point in issue. He was going on to state circumstances which in a subsequent stage of the proceedings it might be necessary to prove, namely, that locks had been picked, that doors had been forced, and that plots had existed; because that proof would be the means of explaining that part of the conduct of her majesty which had been made a ground of imputation. It would, for instance, account for her taking care that some of her male attendants, in whom she could place confidence, should sleep near her—for her taking care to have always a person near her on whose fidelity she could depend. He contended, that evidence for this purpose was admissible, as Majoochi had thought fit to deny the existence of any plot whatever, and when examined at different times, had also denied all knowledge of any locks having been picked. His evidence was surely open to contradiction on these points. Their lordships would see, in page 63 of the printed Minutes, what answers he had given to questions about this baron Ompteda. In the first place, he said, "I do not remember the name." He was then asked—

"Did you ever, during the year after the long voyage, see a German baron dining at her royal highness's at the Villa d'Este?—In the house Villani I saw him.

"Then you do know a certain German baron who used to visit her royal highness?—He was a Prussian.

"What was his name like, as nearly as you can recollect?—I do not remember the name, because it was an extraordinary or unusual name, but he was called the baron—baron—baron something."

After this evidence, was it not fit that her majesty's counsel should be permitted to prove, that Majoochi knew this baron's name; that he made his name and his deeds the subject of repeated conversations? He was further asked,

"Was there any thing happened in the princess's family, any thing that made a noise in the family connected with this baron, whatever his name was?—This I do not remember.

"During the time you were in the service of her royal highness at the Villa Villani, or the Villa d'Este, do you recollect any blacksmith or locksmith being examined there with respect to the picking of locks?—This I do not remember.

"Or about making false keys?—This I do not remember.

"You never heard of any such thing in the family while you were there?—This I do not remember to have heard; I do not remember it.

"Do you remember no quarrel taking place between lieutenant Hownam and this German baron, while you were there?—I have heard that they had quarrelled together, but I do not know the cause of the quarrel."

Then follows a long series of *Non mi ricordos*, in answer to questions about the time when he heard of the quarrel. If Majoochi had denied seeing a person on his journey to Vienna, would it not be competent to prove that he had acknowledged seeing that person? He apprehended that it was perfectly open to him to show the contradiction in that witness's testimony without any contravention of the rules of evidence. The existence of the plot tended to explain and justify the conduct of her majesty. The witness denied all knowledge of that plot. He contended, that the testimony now offered did away with that part of the evidence, and left the case *rectus in curia*. He did not contend that he should establish any facts declared by Majoochi. But if he proved that Majoochi frequently talked of the plot, that in talking of it he sought to evince his courage as well as his fidelity, by saying of Ompteda, "If the Queen would permit me, I would kill him like a dog"—if he proved him to have said this, he did not say that he should prove the facts stated against Ompteda, but he should remove the impression which had been made in consequence of Majoochi's perjury. The only objection which he conceived might reasonably be made to their doing so was, that it was a work of supererogation to attempt to detract from credit which no longer existed, for the evidence of Majoochi was already completely destroyed.

Mr. *Brougham* said, that after the able argument of his learned friend, little was left for him to add; but he would merely remind the House of the purport of their defence; they did not contend that any thing said by Majoochi regarding Ompteda was evidence in——

The *Lord Chancellor* here interrupted the learned counsel, and said, that a great deal of time might have been saved if the counsel had stated the point to which his question tended. He would throw out for the consideration of the counsel, whether Majoochi having said that he had heard of a quarrel between Mr. Hownam and a German baron, but that he did not know the cause, they were not at liberty to ask what Majoochi had said to him, as to the cause of the quarrel?

Mr. *Brougham* said, that there was perhaps a more important answer of Majoochi than those which his learned friend had pointed out. He had said he did not know what made him recollect the baron's coming to Villa Villani. If, therefore, he could show that he must have known, he apprehended that it was quite open for him to do so. He was perfectly aware that he should be stopped in the question, for, whenever the name of Ompteda was mentioned, *per fas aut nefas*, an objection instantly came from the other side.

The *Attorney General* objected to the style of his learned friend's argument, if argument it could be called, which, consisted principally in assertion. He was not aware that any objection had been taken, whenever baron Ompteda's name had been introduced, as to the propriety of introducing it. He believed it was a mere assertion of his learned friend to say so; but, if such objection had been taken, he doubted not it had been taken properly. He must oppose the manner in which his learned friend, Dr. Lushington, had argued the present question, because he had concluded it by stating, that it was a mere work of supererogation to shake Majoochi's evidence any further, it being already clear to every body that Majoochi was perjured. Such a decision was premature at present, and was one which it became their lordships only to make upon the conclusion of the case. He had never yet heard that a witness could be asked what another witness had said to him in the course of conversation, unless that witness had been first asked, whether he had ever said it to him or not. Now, as to this particular question, he wished to say a few words. The question which

had been asked Majoochi was this—"Do you remember no quarrel taking place between lieutenant Hownam and this German baron while you were there?" and his answer was, "I have heard that they had quarrelled together, but I do not know the cause of the quarrel." Now, his learned friends, in order to be able to obtain an answer to the question which they had just put to the witness, ought to have asked Majoochi, "Have you ever stated to William Carrington that you did know the cause of this quarrel?" because, if they had asked Majoochi that question, he might have been enabled to recollect the conversation, if it had taken place, and to explain the circumstances under which it had taken place; but, not having asked Majoochi that question, it was taking Majoochi unawares to put the question that was now proposed to the present witness. He had heard it said by high legal authority, that the individual with whom a particular conversation had been held must be distinctly named to the witness, before the other party could be allowed to bring forward the individual with whom the conversation had been held, to contradict that witness. At page 140 in the Minutes it would be seen, that the lord-chancellor had stated, "that it had been ruled in the court of King's-bench, that counsel ought, in the first instance, to name the person referred to, for that a person might merely state that he never had such conversation; but that, if put in mind of having been with a particular individual at a particular time, he might immediately recollect, and his former answer might be no slur upon that testimony." That rule, he apprehended, was sufficiently plain; and he called on the House to consider in what a situation witnesses, not merely in this case, but in all others, would be placed in the courts below, if that principle were now to be given up. No question had ever been put to Majoochi whether he had ever made any declaration about the knowledge of the cause of the quarrel between lieut. Hownam and baron Ompteda to any person, much less whether he had ever made such a declaration to W. Carrington; and he therefore apprehended that the objection which he had taken to the present question was perfectly well-founded, and that no sufficient answer had been made to it by his learned friends on the other side. It was an assumption on the part of his learned friends to say that there had been a plot against her majesty, and that baron Ompteda had been at the bottom of it. They had made great assertions upon that point; but as yet no proof had been offered to substantiate them. If it were a part of their case to prove the facts which had been alleged against baron Ompteda (whose memory, it appeared to him, from the knowledge he had of the matter, had been covered with the most unfounded slander and calumny), they certainly might do so; but then they could not do it by offering what had passed in conversation with a third person. No evidence at all had been given relative to baron Ompteda in the case for the bill; and it was, therefore, highly unfair to let it go forth from their lordships' bar, that the slanders which had been promulgated against him had foundation in fact. The learned gentleman concluded his argument by again repeating, that in point of law the question ought not to be put, and by imploring their lordships not to permit the witness to answer it.

Mr. *Brougham* denied that he had argued that the facts against Ompteda could be proved by a conversation.

The *Attorney General* said, his learned friend had taken up the argument in the same way as it had been taken up by Dr. Lushington, and had stated that the manner in which Dr. Lushington had argued it, prevented him from saying more.

Mr. *Brougham* admitted that he had done so; but said he had added nothing to the argument of his learned friend.

The *Lord Chancellor* viewed the question as being one of considerable importance. It was not to be forgotten, that the authority which had been mentioned was met by other authorities on the same subject. The question, as he understood it, was this:—"Whether A. B., a witness, being called for the plaintiff in a case, and being asked if he knew of a quarrel between two individuals, and answering that he had heard of a quarrel, but did not know the cause of it; and on cross-examination not being asked whether he had made a declaration to C. D. regarding the cause; the question was, whether or not C. D. could be called to contradict him by proving the contrary, the witness not having been asked if he had held such conversation with that person." This question should be submitted to the Judges, and after they had advised, the House would be better able to decide the question.

Lord *Erskine* agreed with his noble and learned friend in thinking, that the whole course of examination which counsel now proposed to pursue, must be built upon what Majoochi had said in his former examination, but differed from him when he said, that the present question appeared to him to be such as could not be allowed. He thought that her majesty's counsel had a right in their questions, not merely to refer to what Majoochi formerly said, but with such commentaries as they might think the nature of his evidence required. Their lordships were to look in the Minutes to what Majoochi had previously stated. Counsel proposed to show, by a conversation which had taken place between Majoochi and the witness, that what Majoochi had there stated could not be true, and that Majoochi must have known at the time he stated it, that it could not be true. In his idea, that line of examination was perfectly allowable. If, however, his noble and learned friend wished to have the point decided by the Judges, he had no objection. The House, however, were the real judges of it; and it was for them to decide whether the question, on which so much discussion had arisen, should be put to the witness or not.

Mr. *Brougham* begged to suggest, that, conceiving, from the intimation made to the counsel, the opinion of the House to be with him, he had not finished his argument, and requested permission now to conclude.

The *Attorney General* objected to his learned friend being heard any further upon the subject, after having spoken to it so often.

The *Lord Chancellor* informed the counsel, that the House, upon consideration of the importance of the question, would be ready to hear every thing that could be urged; and therefore were willing to hear the Attorney-general of the Queen, Mr. Attorney-general being at liberty to be heard in reply.

Mr. *Brougham* continued his argument. Past all doubt, nothing that Majoochi had said to this witness could be received as proof of any thing that Ompteda had done. But Majoochi having said, in answer to five or six questions on a particular point, *Non mi ricordo*, "I do not recollect," and to two questions "I do not know," he maintained, that he was at liberty to ask of the present witness whether Majoochi had not, by a conversation with him, shown that he was speaking falsely when he said so, he (Majoochi) having mentioned circumstances to the witness which proved that he must not only remember it in its general bearings, but also in its more particular details. He contended, that he was at full liberty to show, that those details were given in such a way, and were of such a nature, as could not easily be forgotten; and likewise that Majoochi could not be ignorant that he told them to the witness, whom he was going to make tell them to their lordships. The rule of law, he apprehended, allowed that a negative declaration to another person might be proved. It was not denied, that if he had asked Majoochi whether he had ever said to Wm. Carrington that he knew of the causes of quarrel between lieut. Hownam and baron Ompteda, he should have had a right to put the present question. Why had he that right? Merely to impeach the evidence of that witness. In this case, too, it was likewise evidence; because it was a full contradiction of what Majoochi had said: it proved, that he did know the cause of quarrel, though he had said that he did not. His learned friends argued, that by a previous decision, in page 140 of the Minutes, a general question could not be put; and it was said, that one of their lordships had referred to the practice of the Court of King's-bench, in which you could not examine one witness to what another had said, without asking him whether he had ever said such and such things to him in conversation. But, though this had been said by some of the learned judges, it had never been ruled by them in the King's-bench; but, even if it had been so ruled, it should be considered that their lordships had precedents in their own House to go by. They would find one not only in the case of the duchess of Kingston, but also in the case of Elizabeth Canning—which, by-the-by, had been tried at the Old Bailey by a very learned judge—and there they would find that they had not considered themselves tied down by the rule of the King's-bench. They (her majesty's counsel) wished the question not to be decided in the general manner in which it had been put by his lordship: they wished that it should be put in this manner: — Whether a witness having sworn that he did not know a circumstance to which he was examined, the counsel was not allowed to prove, by de-

clarations from his own mouth, that he did know it. Suppose it had been a fact, and not a declaration, to which Majoochi had sworn ignorance—suppose he had asked him, "Do you know whether A. B. had forged certain keys, and picked certain locks, at which you yourself was present, and for which A. B. was turned out?" and that he had replied, "I don't know any thing about the picking of the locks, the false keys, or the turning out," should he (Mr. Brougham) not be allowed to show that he (Majoochi) had been bodily present, and had seen the person turned out; and that, therefore, he must have known all about it; that he could not have forgotten it; and, in consequence, that when he said he had forgotten it, he must be speaking an untruth? The mode proposed, was, indeed, a different mode of showing that he had sworn falsely; but it was still stronger as the declaration came out of his mouth. He had only to say, that, even supposing the law of the case to be decided against them, the decision would be a novel one. Would they, then, considering that they had come to this trial in full ignorance of the case, and of the witnesses who were to be called against them, prevent them from putting a question, for which, if they had laid a ground in their previous examination, it was admitted, *ex consensu omnium* that they would have a right to put? If they did prevent them, it would be peculiarly hard that he should be shut out from the opportunity of establishing a contradiction, because, in the cross-examination of the witnesses, he had happened to omit one particular question.

The *Attorney General* said, that he should only be trespassing on their lordships time if he replied at any length to what had been stated by his learned friends on the other side. He had already answered it, and he thought their lordships would not be better satisfied if he were to repeat it. But, to come to the evidence, the witness had been asked, if, while he was in the house, a quarrel had not taken place between a certain baron and lieut. Hownam? To which he answered, that he had heard of a quarrel, but that he did not know the cause. Now, my learned friends say, they can prove that he did know it, and they propose to prove his knowledge by a conversation which he had with this witness some years ago. But, he said that they could not, in fairness to the witness, and by the rule of law, be permitted to prove that conversation, because they had not at the time of his examination called such conversation to his mind. He was much surprised that the experience and acuteness of discernment by which his learned friend was so eminently distinguished, should have allowed him to argue as he had done. A fact and a conversation were totally different things: a conversation he might explain; a fact he could not. The point, here, was a declaration said to have been made by Majoochi, and he would contend, that such a declaration could not be brought forward to invalidate his testimony, as Majoochi had not previously denied the conversation in which such a declaration was said to have been made. Had he been asked, whether such a conversation took place, there might have been some ground for the question; now, he apprehended, there was none at all; his learned friend had not laid the slightest foundation for it.

The Counsel were directed to withdraw.

Lord *Erskine* put a case—that a witness had made a declaration, of which the counsel, at the time of the cross-examination, was not aware, and upon which he therefore could not examine, but that it afterwards came, in the course of the trial, to his knowledge: would it be said, that for that reason, in a court which was established for the discovery of truth, the truth should not be discovered? Above all, would it be said that such a circumstance should prevent the discovery of truth in a case of such paramount importance as the present? Whatever might be the opinion of the learned Judges upon this question, he should still feel himself bound to act upon his own judgment. The fact now sought to be established was of too important a nature to be defeated by an objection so purely technical. If their lordships wished to avoid the embarrassment of a possible dissent from the decision of the learned Judges, he saw no reason why Majoochi might not be called again, and confronted with the other witnesses. This he had often seen done in the course of his long practice. He would not believe that questions were inadmissible which were calculated to elicit the truth. As a peer of parliament, he should certainly give it as his opinion that this evidence might be received.

The *Lord Chancellor* thought the ques-

tion could not be put, and repeated his former argument upon the subject. He did not pretend to say, that it was not the practice to call up a witness in the manner in which his noble friend had stated that Majoochi could be examined. Neither would he pretend to say, that Majoochi could not be legally brought up, and the questions put to him—"Did you ever say so and so to Carrington? Or did you not make such and such declarations?" The best course, in his opinion, was, to ascertain the practice of the courts below: and, in order to do that, he would shape the question to be put to the Judges in the following manner—"Whether, in the courts below, a witness, examined in a cause, being asked whether he knew of a dispute having taken place, said, he had heard of the quarrel, but he did not know the cause; and not being asked, whether he had ever made a declaration of any such knowledge in conversation; and afterwards, in the course of the defence, the counsel having been made acquainted with witness's declaration of such knowledge—would such proof be received in the courts below?" And, secondly, "Whether in the courts below, a witness being asked whether he remembered a dispute, said that he did not remember such dispute, it was consistent with their practice to ask a witness for the defence whether he, who made such a denial, did not, in conversation, detail those circumstances, the recollection of which he previously denied on his cross-examination?" He did not mean to say that he had no opinion of his own upon this question, but he wished to ascertain the opinion of the learned Judges.

Earl *Grey* said, that even if the opinion of the learned Judges should be against them, he should wish, for the sake of justice, that the question should be put. The noble lord on the woolsack had suggested a mode of proceeding which would save time, and get rid of the present difficulty, which had arisen from an omission in the examination of Majoochi. Majoochi might now be called in and asked, "Did you hold any conversation with Carrington about baron Ompteda?" If this could be done, it would be the most convenient mode of proceeding.

The Earl of *Liverpool* had no objection to the production of Majoochi; but thought that, if the Judges were applied to, the House ought to adopt their opinion. It would be much better to continue in that course of proceeding which they had followed since the commencement of the investigation; for though it had been said that they ought not to decide upon the opinion of the Judges, but upon their own (which he admitted to be correct), yet he thought they could not do better than avail themselves of their great legal knowledge in the decision of the present question.

Lord *Erskine* said, he never meant to assert that, if the opinion of the Judges should be in the negative on the questions, the House ought to neglect it. He merely meant to express his own dissent from it.

The Marquis of *Lansdown* thought the better way would be to ask counsel on both sides whether they had any objection to Majoochi's being called.

The Counsel were again called in, and the Counsel on both sides were asked, whether they objected to Majoochi being called in, and questions put to him in reference to the declaration to which the questions to the witness had referred.

Mr. *Brougham* stated, that he had no difficulty whatever.

The *Attorney General* addressed their lordships. He felt in a very awkward situation, and he would tell the House why. Their lordships would recollect that Majoochi had been already examined three times in the course of the proceedings. The option was given to his learned friends whether they would proceed then or not with any further re-examination. They had declined doing so, and had preferred the delay which had taken place, in order to open their case. If they suffered the proposed course to be taken in this case, knowing as they did the law upon the subject, it was their lordships' duty to be prepared for the consequences. If it were done in this case, it might be done with respect to every witness at their lordships' bar.

The *Lord Chancellor* here interrupted the attorney-general. He did not apprehend that the House wished the learned gentleman to argue the case; but were desirous that he should state simply, as he was perfectly authorized to do, whether or no he withheld his consent.

The *Attorney General* stated, that he did not, under the circumstances, feel authorized to give a consent; that he must leave it in the hands of their lordships.

Then the following Questions were proposed to the learned Judges:

1st. "If in the courts below a witness examined in chief on the part of the plaintiff being asked, whether he remembered a quarrel taking place between A. and B., answered that he heard of a quarrel between them, but he did not know the cause of it; and such witness was not asked, upon his cross-examination, whether he had or had not made a declaration, stated in the question, touching the cause of it; and, in the progress of the defence, the counsel for the defendant proposed to examine a witness to prove that the other witness had made such a declaration to him, touching the cause of such quarrel, in order to prove his knowledge of the cause of the quarrel, according to the practice of the courts below, would such proof be received?"

2dly. "If in the courts below a witness examined in chief on the part of the plaintiff being asked, whether he remembered a quarrel taking place between A. and B., answered, that he did not remember it, and such witness was not asked, on his cross-examination, whether he had or had not made a declaration, stated in the question respecting such quarrel; and in the progress of the defence the counsel for the defendant proposed to examine a witness to prove that the other witness had made such a declaration, in order to prove that he must remember it; according to the practice of the courts below would such proof be received?"

The Questions were delivered to the Lord Chief Justice, and the learned judges craving leave to withdraw to consider them, leave was granted accordingly, and they withdrew.

Then the Right Hon. Lady *Charlotte Lindsay* was again called in, and further examined, as follows:

Lord Chancellor.—Has your ladyship searched for that letter referred to yesterday? Yes, I have.

Have you been able to find it? No, I have not been able to find it.

Do you believe it not to be in existence? I believe it not to be in existence.

Have you any reason to think that it can be elsewhere but in your own possession? No, I have no reason to think it; I have not a positive recollection of having destroyed it, but I have no reason to believe that I did not destroy it.

Earl of *Lauderdale.*—Can your ladyship state the grounds of your brother's request, as made in that letter?

Mr. Brougham prayed leave to submit, through the House, that this was a question which could not be put.

The Counsel were informed, that lady Charlotte Lindsay having said, that she left the service of her royal highness in consequence of the request of her brother, and that that request was contained in a letter, that to the extent of asking lady Charlotte what were the terms in which that request was conveyed, it appeared to the House there could be no objection.

The question was proposed: and the witness said,

I have no distinct recollection of any thing contained in that letter, except his request and advice that I should resign my situation, and some pecuniary arrangements that were to take place between us.

Does your ladyship's recollection lead you to think that the advice was given without any cause assigned?

Mr. Brougham prayed leave to submit, through the House, whether the terms of this question were correct.

The Witness was asked,

Can your ladyship say whether your brother gave his advice without assigning any cause for that advice? I do not remember in that letter his assigning the cause, but I have some indistinct idea that the reports I before alluded to might have been mentioned in that letter, but I cannot positively say.

What reports does your ladyship allude to? Reports that I mentioned in answer to a question put to me yesterday by a noble lord, reports of an unpleasant and degrading nature that had influenced me in resigning my situation.

Her ladyship withdrew.

Mr. Brougham then called *John Whitcombe.*

The Earl of *Lauderdale* objected to the examination of another witness proceeding in the absence of the Judges, who ought to be present, the better to be enabled to consider any question arising out of the evidence, or the application of evidence, which might be referred to them.

Lord *Holland* thought that his noble friend entirely misunderstood the object of the presence of the learned Judges. Difficulties were very properly and wisely propounded to them, under particular circumstances; and, with great wisdom, their assistance had been asked. They sat there for this reason—that questions might arise in their lordships' minds, upon the evidence given at the bar, which might require the assistance of the Judges in order to solve. These were questions of law, and of proceedings in law; and the Judges ought, in his humble opinion, to dismiss entirely from their minds what evidence they might have heard at the bar, and strictly apply themselves to the dry question referred to them. Conse-

quently, if, in the examination of a witness, difficulties should arise of this nature, their lordships were bound to put them to the Judges in such a shape as should admit of no doubt or difficulty as to their import. It was in this way, he apprehended, that those learned persons were to perform their functions.

The Earl of *Lauderdale* said, that during the period of his attendance in that House, in all cases the Judges had been present while the evidence was being given.

Lord *Holland* thought, after the explanation of his noble friend, that the practice which was contended for was still more dangerous than he had apprehended. For his own part, not only did he not think that the evidence stated at their lordships' bar was to have any bearing upon the minds of the Judges, but he thought that the questions argued at that bar ought never to be referred to them. They were not to give an opinion upon the arguments of counsel; they were to state points of law, and the construction of acts of parliament; and their assistance was intended for the preservation of their lordships' own character, importance, and dignity. The applications and references to be made to them by their lordships ought to be so framed as to bring out the clear opinion of the Judges upon them, but still with as little reference as possible to the proceeding or the evidence before the House; so that in fact it became their lordships rather to exercise their ingenuity in so framing them, as to hide their connexion with such proceeding or evidence. He really thought that, instead of the Judges sitting, as they now did, upon the woolsack, it would be just as well in effect, and perhaps more consistent with strict legal propriety, if they gave the House the benefit of their aid in an adjoining chamber; so that any matter to be put to them must necessarily be exempt from the influence of any evidence, or of the discussions sustained by learned counsel. He thought it would be loss of time not to proceed with the examination of witnesses, when the question was so long under consideration by the Judges.

The Earl of *Liverpool* would say a few words, because they were now adopting a mode different from that of their former proceedings. With respect to any doubts connected with those proceedings, which might (but which, he trusted, would not) arise, those he should desire to refer to the learned Judges; and upon points of such importance he should certainly support the propriety of postponing the hearing of further evidence until they were solved. Evidence, he thought, the Judges were entitled to hear; and he conceived that the hearing of it must enable them to give a more just and comprehensive opinion upon any question arising upon it, and referred to them. Under the present circumstances, however, he had no objection that they should proceed with the evidence, unless any doubts of that material character he had mentioned should arise.

Lord *Erskine* thought that the proposition of lord Lauderdale went much too far.

Then *John Whitcombe* was called in, and having been sworn, was examined by Mr. Tindal, as follows:

In what situation of life are you? Valet to the hon. Keppel Craven.

How long have you been in that situation? Upwards of six years, not quite seven.

Were you in his service at the time the princess of Wales went to Naples? Yes.

Do you recollect the first night of the arrival at Naples in what room Pergami slept? No, I do not to be sure.

Have you ever seen the room in which he slept? Not the first room, I never was in it.

Do you recollect the second room in which he slept? Perfectly well.

Was there a passage at one end of it from that room to the room in which the princess slept? There was a passage led from one end of the house to the other, at the end of which Pergami slept, towards the terrace, the green-house rather, and the princess slept at the front of the house, at the other end of the passage.

Do you recollect the room in which Mr. Austin slept? He slept next to her royal highness.

Do you recollect the room in which Hieronimus slept? He slept next to Mr. Austin.

What situation in the princess's household did Hieronimus hold at that time? He held the situation of page, as I understood.

Do you remember where Dr. Holland slept? Doctor Holland slept in the next room to Hieronimus.

Did the three rooms which you have mentioned lie upon the side of the passage to which you have adverted? Yes, all three.

Was there a door from the room of Hieronimus that opened into the passage? Yes, there was.

Where did the door of Dr. Holland's room open? To another passage that came towards the dining-room.

Was Dr. Holland's room at the corner of

the two passages of which you are speaking? It was.

Did the door of Dr. Holland's room open into the passage that turned into the first-mentioned passage? Yes.

Was that door nearly opposite the door of Pergami's room? Pergami's room did not open from that passage.

Do you remember where mademoiselle Demont, the princess's femme de chambre, slept? She slept in another room over Dr. Holland, the stairs of which led from this passage.

Have you ever been in that room? Yes, frequently.

Have you been in that room by night as well as by day? Late as well as early.

At the time you have been in that room, has mademoiselle Demont been there also? Yes; she invited me, generally, to go there.

When you have been in the room, has there been any other person there besides yourself and mademoiselle Demont? There has been sometimes Preising (Annette we called her generally), but it was seldom she staid long when I was there.

Have you then been alone in the room with Demont? Very frequently.

Was the door opened or was it fastened upon these occasions? The door was locked and bolted.

The door was locked and bolted then when you was in the room alone with her.

The Witness was directed to withdraw.

The *Solicitor General* objected to the question: it was impossible not to see the object intended; he did not, however, consider it necessary for him to argue such a question. It could not be legally put.

Mr. *Tindal* said, he had no wish to put the question further.

The *Lord Chancellor*.—I think Mr. Tindal you have put it as far as you could.

A short conversation ensued, when it was agreed that the last question and answer should be struck out of the minutes of evidence.

The Witness was again called in.

Do you remember the masked ball that was given at Naples? Perfectly well.

Were you in attendance upon that occasion? I was not ordered to attend at the ball; I was in attendance on Mr. Craven; and for my own amusement in the house, I walked about in the apartments any where I wished.

Do you recollect whether the servants of her royal highness were in the early part of the evening dressed in character? Yes, they were; not all of them.

In what characters were those dressed who so appeared in character? Sicard, Pergami, and Hieronimus were dressed something after the Turkish costume.

Was that in the early part of the evening? In the early part of the evening.

Did they afterwards change those dresses for plain dresses? Sicard and Hieronimus went home, and never returned afterwards that I know of; I never saw them afterwards.

Did you see Pergami afterwards? I saw Pergami afterwards to the best of my recollection; he was dressed in plain clothes.

What was he doing? Walking about with me, I met him frequently in the apartments walking.

Were there any refreshments handed about? All the evening, during the night.

Did you or did you not see him amongst the other servants assisting? I think I saw him once or twice carrying refreshments, lemonade, or something of that description.

Were you at Naples during the whole time the princess was there? All the time.

In what manner, according to your observation, did Pergami conduct himself towards the princess? The same as the rest of the servants; the same as we all did.

Cross-examined by *Mr. Solicitor General.*

Did you live in the house? We lived in the house on our arrival in Naples for a few days.

For how many days, as nearly as you can recollect, did you remain in the house? I should think three days, or four very likely; I am not certain to a day.

After that, you lived in the lodgings occupied by Mr. Keppel Craven? Yes.

You have described a passage extending from the apartment occupied by her royal highness to the apartment occupied by Pergami, that was so? It was.

And in that passage there were three rooms, one occupied by Mr. William, another by Mr. Hieronimus, and another by Dr. Holland? Yes.

Dr. Holland's being the corner? Yes, the corner.

Was there not a passage that led from the dining-room, by Dr. Holland's room, into the passage which you first mentioned? Yes.

In going along that passage would you leave Dr. Holland's room on the right? On the right.

Was there not a door leading from Dr. Holland's room into that passage? Yes, to the best of my recollection, there was.

And no door into the other passage? I am not certain whether there was or was not.

In going along that passage which had Dr. Holland's room on the right, was there not a small room on the left? Yes, on the left.

Was that room which was on the left occupied? No, I think not.

Beyond the room on the left, which you think was not occupied, and next to that room, was not that the room of Pergami? Yes.

So that Pergami's room was at the end of the passage, which you have first described, and on the left hand at the end of the small

passage which you have now described? Yes.

Was there not a door leading from Pergami's room, into the passage which you have first described? I am not certain to that; if it was, there was a door that led to the passage, but whether there was any partition between that and Pergami's room, I am not certain.

You have described Pergami's room as being at the end of the passage you first described, was there any mode of going into Pergami's room from that passage? Yes, there was.

By a door? Yes.

You have described Pergami's room, as being towards the garden-side of the house? It is.

Was it the corner room, or was there a small cabinet beyond it? The corner room, to the best of my recollection.

Will you swear, that going from the passage you have just described into Pergami's room, there was not beyond it a small cabinet? I cannot swear, but to the best of my recollection it was the corner room that looked into the garden.

You are not asked whether it looked into the garden, but whether there was not beyond it within, a small cabinet? I cannot be certain of it.

Was there not, in the passage which you have first described, near to the staircase that led up to the room occupied by Demont, a door? There was a door that led to Hieronimus's room.

Opposite to the door, or nearly opposite the door that led to Hieronimus's room, was there not another door? I am not sure of that, I cannot charge my memory with that.

Was there not, parallel with the passage which you have first described, and beyond it with reference to Hieronimus's room, a second passage, leading from Pergami's room to the room occupied by the princess? There was a sort of inward room or passage, or something of that description; I do not know what it is called.

Was there not, near the foot of the staircase, a door from the passage you have first mentioned, leading into this communication, or passage, or whatever you call it, to which your attention has been called? To the best of my recollection there was, but I cannot be certain of it.

The Witness was directed to withdraw.

Lord *Erskine* said, he had something to ask the witness, but for the present he must withdraw from the bar. The witness having withdrawn, the noble and learned lord said, that, before he proceeded to put some questions to the last witness, he begged particularly to call their lordships' attention to the matter out of which the questions he meant to put arose. For this purpose he should beg leave to read, from the printed Minutes, p. 315. an extract from the evidence of Madame Demont, which was as follows:—

"Where did you sleep yourself at Naples? In a little apartment above, above her royal highness's.

"Did you sleep alone in that room? I slept alone in that room.

"Every night? Every night.

"That you will now swear? That I slept in my room alone? Yes, I slept every night in my room alone.

"The whole night? The whole night in my room.

"Alone? Alone.

"Every night, and the whole of the night alone? I slept all alone in my room."

The noble and learned lord then desired that the witness might be recalled.

The Earl of *Liverpool* wished the noble lord to state what precise question he meant to put to the witness?

Lord *Erskine* replied, that he meant to ask him, whether he spent any part of any night, or the whole of any night, in the room of Louisa Demont, when she was there and in bed?

The *Solicitor General* begged leave with all respect to say, that that question could not be put. When Louisa Demont was examined, it was impossible not to foresee that the object of his learned friends, in putting certain questions to the witness, was either to insinuate or to prove that some person had slept with Demont. It was, he thought, a clear and undeniable point of law, that a witness could not be asked if she had committed an immoral act, or, if asked such a question, be compelled to give an answer, if she objected to it. It was equally clear and incontrovertible, as a point of law, that if the witness thought proper to answer the question, and deny the fact attempted to be insinuated, that it would be incompetent for the party to negative her denial by proof. If he was right in that position of law, which he thought incontrovertible, then he submitted to their lordships, that they could not suffer that to be obtained circuitously, or by a side-wind, which could not be attempted openly and plainly. This he affirmed to be the undoubted construction of the law, as administered in the courts below. He stated it with the utmost possible submission to the noble and learned lord, for whose experience, knowledge, and talents, he had a profound

veneration. It was quite unnecessary to cite authorities to their lordships, for he felt he was stating a position which could not be shaken. The only consideration, then, for their lordships, would be, whether they would suffer that to be done circuitously which could not be directly attempted without a violation of the forms of law.

The Counsel were directed to withdraw.

Lord *Erskine* said, he remained unconvinced that his question ought not to be put; for he thought not only that the question he was putting to this witness might have been put to Demont, but also that she might have been legally asked whether Whitcombe had ever slept with her. He affirmed that that might have been done. It was a course which he had himself often pursued at the king's bar; he had repeatedly asked a witness questions which went to show his criminality. He was perfectly ready to admit, that the witness was not bound to answer; but if he answered, what reason was there to take that answer as conclusive, and not to be shaken by other testimony? He remembered that once he had insisted upon sifting such a question: it was objected to, and he tendered a bill of exceptions, which bill he was not under the necessity of arguing; it went to all the reason of the Judges, and received the assent of the most eminent men at the bar whom he had consulted on the occasion. He had over and over again put such questions. He should state what passed in conversation between himself and lord Ellenborough at the time. For that noble lord's learning and abilities he had ever entertained the greatest deference and respect. Suppose, said he (lord Erskine), to lord Ellenborough, that you had been taking a walk among the new improvements in the neighbourhood of Bloomsbury-square, and that some fellow dared to charge you with the commission of a crime, which, if proved, would justly degrade you in the eyes of the world. I know that when the charge was made, the first thing you would do, perhaps, would be, to send for me, to undertake your defence. Suppose that we had every reason to believe the fellow who made the charge to be a scoundrel, false and wicked enough to make it with the view to extort money. The examination, we will suppose, commenced. I said to the fellow, "Who are you, sir?—A captain of a ship. Of what ship? — Of a ship that has sailed abroad. Abroad! where? — She is gone to America. Look nearer to me, sir; let me see, do I not recollect you? are you not the very man that I unsuccessfully defended once, on a charge of returning from transportation? He may, I know, object to answering this question, and have all the credit of his refusal to answer it; but have I, or have I not, a right to put it? The Judge may say, No, it cannot be put; but, should your client be found guilty of the charge, you can then prove the witness to be the person you represent him, in a motion for a new trial." This, said lord Erskine in continuation, was the way in which he put the point to the late lord Ellenborough; and he added at the time, what he felt still, that to deny him the course for which he contended, and point him out in the room of it such a remedy, was a mockery of justice, and most ruinous to the rights and liberties of the subject. Nothing, therefore, was so fatal to the public security, as the position taken by the solicitor-general. But, waving that altogether in this case, and referring to the witness Demont's evidence —she is asked, and she answers over and over again, that she slept alone, during the whole and every part of the night in her chamber: she made no objection to answer; no objection was taken elsewhere: he had a right, therefore, to try the validity of the answers she had recorded, and to ascertain whether she had lain with any body else at the time when upon her oath she declared she had remained alone in her chamber. He concluded by asserting that he had a right to have the witness recalled, and asked if he was in Demont's room on any night when she was in bed there.

The *Lord Chancellor* begged to state to the House what he knew of the practice in the courts below. When he first came into Westminster-hall, which was between forty and fifty years ago, the constant practice of the Judges was, when a question of a criminatory nature was put to a witness, to inform him that he was not bound to answer the question: that practice was, he understood, of late years discontinued, and the more modern practice, as the rule was laid down in the text-books, was, that a question of the nature he alluded to, might be put to a witness, though he was not compelled to answer, if he did not please. The rule also went further, for it was laid down, that if the

question were asked and answered by a witness, the party asking it could not call evidence to contradict the answer given by the witness. This rule of law certainly put the witness in this singular situation—that, if he refuse to answer, an injurious suspicion is likely to attach to him; but it was clearly and positively laid down in Phillips's Law of Evidence, in the case of the King v. Watson, that if a witness has answered such a question, it is inadmissible to call proof either to contradict or discredit that answer. This was now, according to the text-books, the clear and indisputable practice of the courts in Westminster-hall.

Lord *Erskine* said, he could not concur in any practice which had the effect of shutting out evidence capable of throwing a light upon the testimony of a witness. Questions might still be shaped so as to sift the matter in controversy without violating the rules of evidence practised in the courts below.

The Earl of *Liverpool* said, that though he felt little interest in the way in which the point was decided, yet still he could not see how the House could sift this matter to the bottom by getting that answer from the last witness which it was evidently the object to elicit from him. Demont might be called again; and yet, notwithstanding this contradiction, she might be able to reconcile what the witness stated with the evidence she had herself previously given. She might say she had admitted this person to her chamber, and still persevere in saying she had never slept the whole, or any part, of a night with any body, for that was what her answer literally stated. How was it possible to go farther than this, if both witnesses were re-examined?

Lord *Erskine* said, that his object was merely to show a contradiction of the same fact in the testimony of these witnesses. He meant to go no farther.

Lord *Redesdale* said, that if the witness demurred to the question, it was impossible to carry it farther. Whether a man slept with her was certainly a different question from that which she had already answered.

The Earl of *Lauderdale* said, that where a disagreement as to the mode of examining a witness occurred, the decision should always be vested in the wisdom of the Judges.

The *Lord Chancellor* said, that the construction evidently and plainly put upon the question answered by the witness Demont, fully showed that the object with which it was put was to ascertain, out of her own mouth, whether she had been guilty of an immoral offence. She denies that fact; and in his opinion, speaking both judicially and as a peer, witnesses could not be called to contradict that denial.

The Marquis of *Buckingham* thought it of very great importance that the rules of law should be preserved unimpaired, and that at the same time all the facts should be elicited from witnesses. He thought that, where a doubt arose upon a question, it ought not to be put until the sense of the House was taken upon it.

The *Lord Chancellor* said, he was quite sure his noble and learned friend would not put a question until he saw that the sense of the House was with the propriety of putting it.

Lord *Erskine* replied, that he could not know how to anticipate the objections of the House; nor could he well say beforehand what precise questions he might put. It was obvious that his questions must, after the first, depend upon the answers of the witness, of which he could have no foreknowledge.

The Counsel and the Witness were again called in. The Witness was asked:

Lord *Erskine*.—Where did you sleep in the house at Naples during the time you were there? In a small room next the hon. Keppel Craven.

Did you sleep there every night? Every night during the time I was in the house.

Did you sleep in your room during the whole of every night? I slept there after I went to bed; I was not in bed till 12 or 1 o'clock.

And you never went from your own bed to any other bed during the night? No.

You after those three nights went into lodgings? Yes.

Did you, during the time you were in your lodgings, ever sleep in the house you had left I never slept in the princess's house afterwards.

Earl of *Lauderdale*.—You have been six years in Mr. Keppel Craven's service? Yes, I have.

Where did you first enter into his service? At Brandenburgh-house, at Hammersmith.

Had you been abroad before? No, never.

Do you remember the year in which you entered into Mr. Craven's service? Not exactly.

Do you recollect the month of the year? I have a memorandum of the month and year, but at present I do not recollect it.

But you are sure it was six years ago? Yes, more than six, near seven.

Could you speak French or Italian when you entered into his service? I spoke a little French, not Italian.

Did you speak French sufficiently to make yourself understood, and to understand others? Yes.

Were you at Pesaro with Mr. Craven about a year ago? Yes, about fifteen months since.

Do you recollect Pergami and Mr. Austin coming to Mr. Craven the day of his arrival? Perfectly well, I was at dinner when they came.

Were you in the room at the time that Pergami came into Mr. Craven? I showed Pergami into the room myself.

Did Pergami speak to you upon that occasion? He spoke to me in coming up stairs.

Did he shake hands with you as an old friend? He pressed my hand merely, as he ran up stairs, and walked on.

Lord *Hood*.—Were you ever in Demont's bed-room, after having gone into lodgings from the house at which you had first been? Yes, frequently.

Have you seen any body else in Demont's bed-room? No one, except Annette, to the best of my recollection.

The Witness was directed to withdraw.

The learned Judges being returned;

The Lord Chief Justice of the King's-bench delivered the unanimous opinion and answer of the learned Judges to both the questions propounded to them, in the negative; and gave his reasons.

Then the Lord Chief Justice of the King's-bench was, by order of the House, requested to furnish this House with a copy of the reasons given by him this day in support of the unanimous opinion and answer of the learned Judges to the questions propounded to them this day.

The Lord Chief Justice of the King's-bench accordingly delivered in a copy of his said reasons; and the same are as follow:

Lord Chief Justice *Abbott*.—My lords, the Judges have considered the questions proposed to them by your lordships; one of those questions is in these words, "If in the courts below a witness examined in chief on the part of the plaintiff being asked, whether he remembered a quarrel taking place between A. and B., answered, that he did not remember it, and such witness was not asked, on his cross-examination, whether he had or had not made a declaration stated in the question respecting such quarrel; and in the progress of the defence the counsel for the defendant proposed to examine a witness to prove that the other witness had made such a declaration, in order to prove that he must remember it; according to the practice of the courts below, would such proof be received?"

The Judges are of opinion, my lords, that this question must be answered by them in the negative. The question proposed to the witness upon his cross-examination is, do you remember? That question applies itself to the time of the examination, and many things may have taken place, and conversation may have been held upon them at one season, by persons of the strictest honour and integrity, which may at another season be absent from their memory. It must be in the knowledge and experience of every man, that a slight hint or suggestion of some particular matter, connected with a subject, puts the faculties of the mind in motion, and raises up in the memory a long train of ideas, connected with that subject, which until that hint or suggestion was given were wholly absent from it: for this reason, the proof that at a time past a witness has spoken on any subject, does not in our opinion lead to a legitimate conclusion that such witness, at the time of his examination, had that subject present in his memory: and to allow the proof of his former conversation to be adduced without first interrogating him to that conversation, and reminding him of it, would in many cases have an unfair effect upon him and upon his credit, and would deprive him of that reasonable protection which it is, in my opinion, the duty of every court to afford to every person who appears as a witness, on the one side, and on the other; according therefore to the practice of the courts below, a witness is asked on cross-examination, whether he has made a declaration, or held a conversation, and such previous question is considered as a necessary foundation for the contradictory evidence of the declaration or conversation to be adduced on the other side. I must, however, my lords, take the liberty to add, that in any grave or serious case, if the counsel had, on his cross-examination, omitted to lay the necessary foundation in the way in which I have mentioned, the court would of its own authority call back the witness, in order to give the counsel an opportunity of laying the required foundation, by putting his questions to the witness, although the counsel had not before asked them: it being much better to permit the order and regularity of the proceedings, as to time and season, to be broken in upon, than to allow irrelevant or incompetent evidence to be received.

My lords, this being the opinion of the Judges upon the question which I have taken the liberty to read to the House, it will follow as a consequence, your lordships will be aware, that to the other question which applies itself to the witness's knowledge of a particular fact, the same answer in the negative must be given; and, in addition to the reasons with which I have troubled your lordships, it may also be added, where the question proposed regards the witness's knowledge, that although a witness may have

mentioned a fact in ordinary conversation at a former period, it does not follow that he may have that, which in a court of law can be considered as knowledge of the fact. A fact is often mentioned in conversation from the representation of others, without such a knowledge of it as can enable a person to say in a court of law, I know the fact.

My lords, the answers to your lordships questions, which I have delivered to your lordships, are the unanimous opinion of the Judges now present. But your lordships will be pleased to consider the reasons that I have taken the liberty to offer as proceeding from myself only; there not having been an opportunity of submitting to the previous perusal of my learned brothers, the written paper from which your lordships would observe that part of what I offered was read; I trust therefore, that whatever imperfection may be found in the reasons, will be attributed by your lordships to me alone.

The Earl of *Liverpool* observed, that every noble lord must have carefully attended to the opinion just delivered, and to the language in which it was expressed. It appeared that, by the practice of the Courts below, the question might be regarded as objectionable, and their lordships would remember their own resolution of conforming generally to that practice.

Lord *Holland* thought the reasons stated by the learned judge completely satisfactory.

The *Lord Chancellor* said, that, in strict form, the examination now about to be pursued ought to be conducted by the court. If the learned counsel would have the goodness to represent to him the questions he wished to put, he would himself state them to the witness.

Then *Teodoro Majoochi* was again called in, and examined by the lords as follows, through the interpretation of the Marchese di Spineto.

The following questions were put at the request of Mr. Brougham.

Do you recollect having seen at the Villa Ruffinelli, William Carrington, servant to sir William Gell? I do not remember that.

Do you remember having seen sir William Gell's English servant near Rome any where? This I do not remember.

Do you remember having ever seen sir William Gell's English servant any where? I have seen him, I think at Rome, but not at Ruffinelli.

Did you ever tell sir William Gell's English servant that baron Ompteda had employed some one to get the keys of the princess at Como, in order to have false ones made from them? This not.

Did you ever tell that servant any thing to that or the like effect? I have never spoken of this.

Did you ever tell him that the person employed for the aforesaid purpose by baron Ompteda had confessed to the police such employment, and had been discharged in consequence? I have never had any such conversation.

Did you ever tell him that if the princess had not ordered the servants to take no notice of the conduct of Ompteda, you yourself would have killed him like a dog? I never said any such thing; these things are quite new to me.

Have you ever spoke of the villany and ingratitude of Ompteda, after having so long ate and drank in the princess's house, and complained that he had brought suspicion upon the servants? Never.

Did you ever talk of Ompteda to the English servant of sir William Gell by name? No.

Mr. *Brougham* requested to be permitted to put a question to the witness with a view to his having said so to any person generally.

The Counsel were informed, that the House had in their discretion permitted this examination, in order to apply a contradiction to the evidence of a particular individual produced as a witness; that other questions must be presented to the consideration of the House as the cases arose.

Mr. *Brougham* stated, that he proposed to ask that question, not as applying to the witness having said this to other persons, but lest any difficulty should arise from his hereafter saying that he had said so, but did not know the person to whom the questions had referred.

The following questions and answers were read from the former evidence of the witness, in page 63 of the printed Minutes:

Mr. *Brougham.*—"Did you ever see the baron Ompteda? I do not remember that name.

"Did you ever, during the year after the long voyage, see a German baron dining at her royal highness's, at the Villa d'Este? In the house Villani, I saw him.

"Then you do know a certain German baron who used to visit her royal highness? He was a Prussian.

"What was his name like, as nearly as you can recollect? I do not remember the name, because it was an extraordinary or unusual name, but he was called the baron, baron, baron, something."

Did you ever hold any conversation with sir William Gell's English servant respecting the conduct of that baron with the extraordinary name? Never, Never; I never spoke of this baron.

The Witness was directed to withdraw.

Then *William Carrington* was again called in, and farther examined by Dr. Lushington, as follows:

What did you hear Majoochi say respecting

the baron Ompteda? He told me that baron Ompteda was on a visit to her royal highness.

Was that Teodoro Majoochi? Teodoro Majoochi.

Was he in the Queen's service? He was.

What did he tell you respecting the baron Ompteda? He told me, that baron Ompteda was on a visit to her royal highness, and that he had employed the postillion and the chambermaid to procure the keys of her royal highness's rooms to get false keys made.

Mr. Attorney General objected to the form of the examination.

Dr. *Lushington.*—Did Majoochi tell you that Ompteda had employed some one to get the keys belonging to the princess at Como, in order to get false ones made? He did.

Did Majoochi ever tell you that a person had confessed that he had been so employed, and was discharged in consequence? He did.

Did Majoochi ever tell you, that if the princess would have allowed him he would have killed him like a dog? He did.

Killed whom? Baron Ompteda.

Did Majoochi state, that baron Ompteda was very ungrateful, after he had so long ate and drank in the princess's service? He did.

Did he say that he had made the servants of the house to be suspected? He did.

Did he frequently mention the name of Ompteda? He did, often.

Do you remember sir William Gell being ill at any time that he was with the princess of Wales? I do.

Where? The first time, at Brunswick.

Any where else? At Strasburgh.

Any where else? At Naples.

Do you remember the princess ever visiting sir William Gell when he was in his bed? I do.

Many times? At Strasburgh, he was on a sofa.

How was he at Brunswick? At Brunswick he was on a sofa, and at Strasburgh on a bed.

How was he at Naples? In a bed on the floor.

Was he in bed at the time? He was.

Cross-examined by *Mr. Attorney General.*

Where was it you had this supposed conversation with Majoochi? In the court-yard.

Where? At Villa Ruffinelli.

Who was present? At that time he was by himself.

Did you meet him there accidentally, or how came you in the court? He was there preparing the princess's carriage to go to Rome.

How came you there? I was there merely accidentally, by walking about the premises.

Was your master going to Rome too that day? He was.

How did he go? He went in a carriage.

Who prepared his carriage? I am not certain.

Had you to prepare his things to go to Rome? I had.

How long before they set out for Rome was it the conversation took place? This was on the same day we went to Rome.

How long before? It might be an hour, or an hour and a half.

How long before was it? I should suppose an hour.

At what time did you go to Rome? About twelve o'clock.

Do you recollect what month that was in? I think in the month of July.

In what year? It must be in 1817.

In July 1817? Yes, it was the time sir William Gell was with her royal highness.

How long had you been at Ruffinelli? Part of two days and one night.

Did you go to Rome that day? We did.

How long did you stay at Rome? Sir William Gell stopped at Rome for two months.

How long did you stop? As long as sir William Gell did.

Did Majoochi go to Rome that day? He did.

With the princess? With the family.

He was preparing the carriage, you say, at the time this conversation took place? He was.

Who else was in the yard or about the yard at that time? Principally the stable people, and the rest of the servants.

Do you remember the names of any of them? I was not perfectly acquainted with the stable people.

You do not know the names of any of the persons about the stables? I know one that was near to him, I do not know whether he heard him, which was Louis Pergami; he was in a lower room opposite, where he was preparing the carriages.

What led to this conversation with Majoochi at that time? He was talking of the disrespect baron Ompteda had paid to her royal highness, and that he should like to have it in his power to have satisfaction from him.

What led to the conversation about baron Ompteda at that time? It was generally the subject of conversation through the house at that time.

At that time, in the month of July, in the year 1817? Yes.

At Ruffinelli? Yes, it was.

Did you begin the conversation, or did he commence it with you? He commenced it with me.

Majoochi? Yes, Majoochi.

And he commenced it in the manner you have been asked now, did he? Yes.

He began by saying that Ompteda had employed some one to get the keys? He did.

He began the conversation in that way? He did.

When you came up to him, he said Ompteda had employed some one to get the keys? Yes.

Those were the first words that he used?

His first words were, "Have you heard of the affairs of Ompteda?"

Those affairs that had been talked of in the house while you were at Ruffinelli? Yes.

He asked you whether you had heard of the affairs of Ompteda? Yes.

What did you say to him? I said I had heard something of them, by which means he began, and told me the whole over again.

Had he told you this before? He had talked about it, but not throughout.

When did he talk about it? In the servants' hall, when he had been in the hall at dinner with the rest of the servants.

What other servants were there when he talked about it in the servants' hall? There were at the livery servants' table, I think, eight or ten footmen, and other persons belonging to the household.

Name some of them? I do not recollect exactly the names.

Do you not recollect the names of any of the servants? They generally went by their Christian names; there was one Francesco, a Genoese.

What was he? He was a footman, I believe; he wore her royal highness's livery.

Do you remember the name of any other? No, I do not recollect the name of any other; they were all strangers to me at that time, except him; I had seen him before.

He had had this conversation in your presence in the servants' hall? Yes, he had.

Still he said to you when you came out into the court yard "have you heard of the affair of Ompteda?" Yes.

How long had you been at Ruffinelli? Part of two days and a night.

Had sir William Gell been with the princess before that? He had.

Where? At Naples.

After he left Naples, was this the first visit he paid her? No, he had seen her before.

Where? In Rome.

How long before? About twelve months before.

This was the second time then that the princess was at Rome? The second time that sir William Gell saw her at Rome.

That was in the month of July 1817? I am not certain of the year, I think it was 1817.

Be good enough to recollect the year if you can? I think it must have been in the year 1817 or 1818; I think it must have been in 1817.

Which was it, 1817 or 1818? I am not certain it was 1817 the first time sir William Gell saw her royal highness at Rome, or whether it was the second time.

But this was the second time? This was the second time at Ruffinelli.

There was a year between? There was a year or thereabouts.

There was a year between the first time of his seeing her at Rome, and his seeing her the second time? There was.

This was the second time? Yes.

Whether it was in 1817 or 1818, you are not certain? I am not certain.

How many days did you see the princess when she was there the first time? When she was there the first time from the Turkish voyage, I think three days.

Were you at the Villa Brandi? Yes.

You were there with sir William Gell? I was.

Did sir William Gell sleep in the house at the Villa Brandi? No, he did not.

Where did he sleep? He slept at the hotel de l'Europa.

How far is the Villa Brandi from the hotel at which sir William Gell slept? A mile and a half or two miles.

Did sir William Gell use to dine with the princess, and return to the hotel in the evening? Yes, he did.

About what time did he usually return? Sometimes late, and sometimes early.

Usually? When there was a deal of company, sometimes twelve o'clock, or sometimes one at night.

How far is Ruffinelli from Rome? Four miles or better.

At the time you came from Ruffinelli to Rome, did the princess come to the Villa Brandi? Yes, she did.

It was at that time that she remained there, and that sir William Gell was there? Yes.

How often did sir William Gell dine with the princess at that time? I cannot say, but I think nearly every day.

Re-examined by Dr. *Lushington.*

You are understood to state, that after the princess left Naples you saw her twice at Rome or at Ruffinelli? Yes, twice.

The first time that you saw the princess, did you hear any mention made of baron Ompteda? The first time, no.

Had you any conversation with the servants of the princess prior to your seeing them the second time at Ruffinelli? I saw the servants, and dined with the servants the second time.

Was it then that you first heard of baron Ompteda? Yes, it was.

Examined by the *Lords.*

Marquis of *Buckingham.*—You state that you have been a midshipman in the king's service? Yes.

How long have you left the service? In the year 1811.

How long were you a midshipman? About a twelvemonth.

When did you enter sir William Gell's service? At the same time, in 1811 or February 1812.

Immediately after you left the service? Yes, very soon after.

Do you understand Italian? A little.

Not well? Pretty well.

Can you speak it? I can speak it.

So as to make your way in Italy? Yes.

What language did Majoochi hold this conversation with you in? In Italian.

Did any body interpret between you, or did you understand one another? No, we understood one another perfectly,

You understood him perfectly? Yes.

Perhaps you cannot speak the language enough to give the words in Italian, but give the words in English that he used when he spoke of his willingness to kill Ompteda? He said, he and the servants in general had made up their minds to give him a good thrashing, and to kill him if they could.

Was that all that passed about killing baron Ompteda? That was all he said in respect of killing him; he said it in Italian.

You mean to say that he never said any thing to you respecting killing baron Ompteda, except those words you have just now stated? He said he was forbidden to do so by lieutenant Hownam; he and the servants were forbidden to molest Ompteda, in any place where they might meet him, by lieutenant Hownam.

That was all that passed upon the subject of either thrashing or killing baron Ompteda? That was all.

Those were the only words? Those were the only words.

Those were the only words that were used? They were.

Lord *Ellenborough*.—Where is Ruffinelli? It is about four miles from Rome.

Is Rome the nearest town to Ruffinelli? Yes, I think it is; there are some small villages under the toe of the mountain near it.

Which is the nearest? I do not remember the name, but the largest is Albano; that is the next principal one that is near it; there is another small one, the name of which I do not recollect,

Have the goodness to describe the house at Ruffinelli, what is the colour of it? The colour of it is white, outside.

Be good enough to describe it? It had formerly been a convent; a long slip of a house, with a chapel at one end of it.

Is it a high house, or a low one? Rather a low one.

Is the garden before or behind it? The garden is behind it, or in the middle of it rather.

Has it a garden? It has.

Is it walled? I do not think it is; I have walked in the garden, I never saw any wall.

Was it by day, or by night, the princess visited sir William Gell when he was ill in bed? By day.

Did she come alone? I think lady Elizabeth Forbes was with her.

Were other persons in the room besides yourself and the princess and sir William Gell? I think Dr. Holland was in the room one time.

Albano is the nearest village to Ruffinelli? There is Frascati, a village in which it stands, about a quarter of a mile off.

Is Frascati higher or lower? I think it is higher.

Earl of *Lauderdale*.—You have said that you saw Louis Pergami at the time this conversation took place between you and Majoochi? Yes.

How was Louis Pergami occupied? He was occupied in giving orders for the horses, and different orders on going from the place.

Was he assisting in preparing the carriages? No, he was not.

You heard this conversation twice at Ruffinelli, in the servants' hall, and once in the court yard? I did.

Do you recollect the names of any of the servants besides that one you have mentioned? No, I do not recollect any of the names of the servants.

Do you remember a servant of the name of Alessandro there? No, I do not; I did not dine at the table of the livery servants, and did not know them.

You did not know Alessandro Finetti? I do not recollect the name.

Did you ever see a servant of that name when you were at Ruffinelli? Not to my knowledge, I might see him, but did not know him.

Were you ever more than once at Ruffinelli? I was there part of two days and a night.

Are you to be understood to say, it was only four miles from Rome? I think it was four miles from Rome.

Marquis of *Huntley*.—In what ship did you serve in the navy? I was with sir John Beresford in the Poictiers.

A Peer.—What was the first year you went to Italy? I think in 1814.

Did you speak Italian before you went to Italy? I did a little.

The Earl of *Liverpool*.—You say that Teodoro Majoochi told this story first in the servants-hall: state particularly the names of the servants who were there; were those the servants you saw either before or afterwards at the Villa Brandi? I saw them at the Villa Brandi afterwards.

Did you not live with them at the Villa Brandi generally, during the time sir William Gell was there? No, I did not with the livery servants.

Can you name any one you can recollect? I do not recollect their names, I know them all by sight.

Earl of *Rosebery*.—Can you repeat in Italian the particular phrase Majoochi made use of, with reference to speaking of baron Ompteda? I can a little, I think.

Have the goodness to do so? Lui hanno detto a mi, vudres che lui lasciar me a fare il mio dovere, che lui vorrebbe bastonare e mazzare come un cane in mezzo alla strada.

Translate that into English? Teodoro Majoochi said he wished he had it in his power to do his duty and his pleasure, he would thrash him in the street, and murder him in the street.

Earl of *Rosebery*.—Can you swear to the accuracy of those latter words "come un cane"?—Yes, I can.

Are you certain that conversation took place in one or other of the two years, 1817 or 1818? I am not certain whether it was in 1817 or 1818.

You are certain it was in one or the other? I am.

What is the English of these words "come un cane"? As a dog, or like a dog.

Earl of *Darnley*.—You have stated the distance from the Villa Ruffinelli to Rome to be four miles; what miles do you mean? I mean Roman miles, or geographical miles.

Are those computed or measured miles? I understand they are measured miles.

Did you ever walk from Rome to the Villa Ruffinelli? I never did, I have always gone in a carriage.

How long were you going from one to the other? Three quarters of an hour, or an hour.

You went very slow? I did: it is all uphill.

Are you sure it was the Villa Ruffinelli or the Villa Brandi? The Villa Ruffinelli.

Marquis of *Lansdown*.—Do you recollect whether there are any measures of distance corresponding with mile-stones on the road? I do not recollect any mile-stones; it is generally called so.

Why did you leave the navy? I did not like the sea, and sir John Beresford got my discharge.

Earl of *Lauderdale*.—Is Frascati near to Ruffinelli? It is about half a mile, or a quarter of a mile.

When you had this conversation with Majoochi, did he inform you how long before that time it was that this affair of baron Ompteda had happened? He did not say any time, but said it was at Como.

Did you ever mention to any person the conversation that passed between you and Majoochi? I did.

To whom? To Mr. Vizard.

Was that shortly after the time he had spoken to you? No, it was not, it was in London.

Did you, shortly after the time you had had that conversation with Majoochi, ever mention it to any persons of the suite you were with? No, I never did, I was never asked.

Can you state the day of the month in which you mentioned it to Mr. Vizard? It was in the month of September, I do not remember the day.

Was it on the day on which you first saw Mr. Vizard? I had seen him before, it was the first day I was at his house.

Had you read the evidence in this cause antecedently? I had, some of it.

Had you read Majoochi's evidence? I had.

Earl of *Harrowby*.—You have stated that Majoochi had held some conversation in the hall, among the other servants, previous to his conversation with you, can you recollect what Majoochi said in that conversation when the other servants were present? Only to the same purpose relative to the affair of baron Ompteda.

Was that conversation addressed to you, or to the servants in general? It was addressed to me.

Did the other servants hear it? They did.

You have stated that Majoochi began the second conversation with you by asking you whether you had heard of the affair of baron Ompteda? He did.

Earl of *Rosebery*.—Was the conversation in the servants hall, and the conversation in the yard upon that subject, held on the same day? No, it was not.

Which was held first? That in the servants hall was first, he did not mention about thrashing and murdering Ompteda in the hall, but in the yard.

Marquis of *Buckingham*.—Did you ever mention this to sir William Gell? I did, after I had read the evidence.

And before you went to Mr. Vizard? No, after I had been to Mr. Vizard.

Without stating any number of times, can you state how often you went from Rome to Ruffinelli, and from Ruffinelli to Rome? But once.

Marquis of *Lansdown*.—Did you take any part in the conversation with Majoochi, respecting Ompteda, when you heard him mention it in the servants hall? I did not take any part further than giving ear to it; but he told me more particularly in the yard.

A Peer.—You have given in Italian some part of what Majoochi told you, can you give in the original Italian words, the way in which he began his conversation, what were the Italian words? Avete inteso cosa ha detto il gente de la servizio di affare de Ompteda.

Earl of *Enniskillen*.—You were a midshipman on board the Poictiers? Yes.

Where were you discharged? At Portsmouth.

In February, 1812? It was in February, 1811.

When you had the second conversation with Majoochi, did Majoochi allude to the former conversation which you had in the servants' hall? He did.

In what way? Telling me many particulars in his own idea what he would wish to do.

Marquis of *Buckingham*.—You mentioned this matter to Mr. Vizard after you had read the evidence given by Majoochi? I did.

Did you mention it to any body else? I mentioned it to people in the street talking of it, that I could contradict it.

To whom did you mention it? I mentioned it to Mr. Whitcombe, who was here just now, John Whitcombe, Mr. Craven's servant.

Did you mention it to him first? I think I did.

Did you ever mention it to your own master, sir William Gell? After I had seen Mr. Vizard.

How came you to go to Mr. Vizard? I was told; I saw him at the Queen's, and I knew he was solicitor to her majesty.

Were you told he was solicitor for her majesty? Yes.

Who told you? sir William Gell.

Before you mentioned this matter to sir William Gell? Yes, before I mentioned this matter to sir William Gell.

Can you mention any other persons to whom you mentioned this besides Mr. Vizard and Mr. Keppel Craven's servant? I mentioned it to sir William Gell and Mr. Craven, after I had been to Mr. Vizard.

Before you went to Mr. Vizard? I mentioned it to persons in the Queen's household.

Name them? Mr. Hieronimus, Mr. Milborn, Mr. Crachnell.

Did you mention it to any persons not in the Queen's household? I mentioned it to different people in company.

Where did you mention it to those poeple? I mentioned it at Brandenburgh house among the Queen's servants.

You say you mentioned it in the street? Yes, I did; in consequence of persons knowing I was with sir William Gell, persons asked me, and I said I knew a good deal of it was not true.

Who were they, persons known to you? Mr. De Bruhl, general Oakes's servant; Mr. Mitchell, lord Glenbervie's servant.

Duke of *Clarence*.—Did you go by the same name when you were on board the Poictiers as you do now? I did.

Were you in any other ship in his majesty's service than the Poictiers? No.

Lord *Colville*.—Have you any certificate from sir John Beresford of your service under his command? I had it, but I have not it now.

Do you mean to say you have lost it? I have.

But you are certain you received a certificate? I am.

Were you rated a midshipman on board the Poictiers? I was.

How long? I do not know rightly how long; I suppose during the time I was there.

What situation had you served in before you were on board the Poictiers as a midshipman? I had been at sea in the merchant service when I was a boy; then I had been on land, and got my livelihood in the best way I could.

You are to be understood that you were never in his majesty's service before? No.

Lord *Enniskillen*.—What countrymen are you? An Englishman.

What part of England? Essex, near Colchester.

Duke of *Clarence*.—Having stated that you had been in the merchant service previous to your going on board the Poictiers, are you to be understood to have joined that ship as a midshipman, capable of doing your immediate duty, or as a youngster? I went with sir John Beresford on board the Poictiers.

Do you mean that you entered as a youngster to learn your duty, or did you go upon the quarter-deck of that ship as a positively effective midshipman? I was not a very youngster; I did not go upon the quarter-deck for some time; but I understood I was to be a midshipman.

Are you positively sure that from the time you joined the Poictiers, you were rated midshipman? I am not certain whether I was rated at the time or not; I was rated at the time I left it, which I saw upon my ticket.

You are perfectly clear in your own mind that you left his majesty's service for no other reason than at your own request? Nothing else.

The following question was put at the request of Mr. Attorney General:

Was the servant Francesco, whom you have mentioned, the servant of Mr. Hownam? I am not certain, I only know him by the name of Francesco, and know he wore her royal highness's livery.

Was he the only servant of that name? I recollect no other.

The Witness was directed to withdraw.

Then *John Jacob Sicard* was called in, and having been sworn, was examined by Mr. Brougham, as follows:

When did you first enter the service of the princess of Wales? Next February the 1st, it will be twenty-one years.

You are a foreigner? I am a naturalized Englishman now.

Of what country are you a native? Of Anspach.

Had you been in any other place before you entered her royal highness's service? Yes, I had the honour of living ten years with the marquis of Stafford.

In what capacity did you live with his lordship? As cook.

In what capacity did you enter her royal highness's service? As cook.

By whom were you placed in her royal highness's service? By his present majesty's orders; Mr. Beek, who his now dead, appointed me.

Were you afterwards promoted to any other place in her royal highness's service? In the October of the same year, her royal highness was pleased to appoint me her maître d'hotel.

Did you remain in her royal highness's service in that capacity? Yes.

Did you afterwards serve her in that capacity till you went abroad with her? Yes.

When was that? We left England in August 1814.

Did you accompany her royal highness to Brunswick? Yes.

From Brunswick to Italy? To Strasburgh, and through Switzerland into Italy.

Do you remember her majesty having occasion for a courier at Milan? Yes.

Did you receive any directions respecting the hiring of a courier? Sir William Gell gave me orders to hire one.

Did he mention to you the person whom you were to hire? Partly so; he said he would be recommended by the marquis Ghisiliari.

Did you in consequence of his directions hire the courier so recommended? Certainly.

Was that Pergami? Yes.

Had you any communication with her royal highness upon the subject of hiring Pergami at all? None.

Do you happen to recollect whether her royal highness dismissed a courier about that time? No.

Do you happen to recollect whether soon after that time? Soon after, at Rome; Croquet we had hired at Geneva.

Do you recollect, on your arrival at Naples, the house in which you were the first night with her royal highness? Yes.

Was there sufficient accommodation for her royal highness's suite in that house? Not conveniently.

Were other arrangements for the accommodation of the suite made the day after? Yes, several.

Do you recollect in what room Pergami, then the courier, slept that first night of your arrival? If I am right he slept where Charles Hartrop slept, or somewhere near there, over lady Elizabeth's room.

Did he continue to sleep in the same room the following nights? I believe one night or two.

Did he then remove to another room? Yes.

Who appointed that room for him to go to then? I did.

What was that room? A small cabinet.

Did you make that arrangement for his changing his room, and sleeping in that small cabinet, by directions of her royal highness? No.

Had you any communication previously with her royal highness upon the subject? No.

Had you any communication with any other person? With Hieronimus I spoke.

Do you recollect any reasons you had? The principal reason I had was, that there was a glass door which went into the garden that was not safe, and therefore I thought it right that a servant, or some one, should sleep there, a male.

During the time that you have lived in her royal highness's service, now her majesty, have you had occasion to observe the manner of the Queen towards her servants? Yes, I have many times.

Have you had occasion to see the manner in which her majesty treated her servants? Yes.

The manner in which her majesty spoke to her servants? Yes.

Has her majesty frequently conversed with yourself? Many times.

What manner of conversing with or treating her servants had her majesty generally? Uncommon kind, almost to a fault.

Was this manner of her majesty towards her servants generally to all her servants, or was it confined to any one individual among them? To all.

Have you ever had occasion to walk near her royal highness, or with her royal highness? Many times, by her command.

Have you ever walked so with her royal highness in a garden? Yes, in the pleasure ground at Blackheath many times.

Upon those occasions, has her royal highness talked to you in walking? Very condescendingly.

Has her royal highness ever had occasion to take your arm in those walks? Except on steps or rising ground, and sometimes her royal highness, in the way of conversation, I have had the honour for her royal highness to put her hand upon my arm, by saying, "you understand what I mean," or, "do not you agree with me;" and I believe their lordships may have had an opportunity of that.

How long have you ever had the honour of walking with her royal highness upon those occasions? Half an hour, or sometimes more.

Do you happen to recollect whether you walked with her in the garden at Naples at all? I do not recollect it.

Do you recollect a masked ball at Naples? I do.

Given by her royal highness? Yes.

To the court of Naples? Yes, I had the management of it; Mr. Piarelli assisted me, a person who must be known to some of your lordships; lord Llandaff, I believe, knows him.

Who is Mr. Piarelli? A very respectable person; a merchant.

Did you also yourself, upon that occasion, appear in any dress? Yes, I did.

Did any of the other members of her royal highness's suite? Yes, Hieronimus and I went together.

How were you both dressed? As Turks.

Do you happen to recollect her royal highness attending that masquerade herself? Yes.

Did she appear in one or more dresses in the course of the evening? I recollect two dresses.

Do you recollect what those dresses were? One of them was a kind of a country peasant, and the other a Turkish dress, if I recollect right.

You are no longer in her majesty's service?

On a pension as long as her majesty pleases to give it.

When did you quit her royal highness's actual service? Within these last three or four months.

Cross-examined by *Mr. Solicitor General.*

What is the amount of the pension you have from her majesty? For the present it is 400*l.* a year.

Did you say that that was a pension, the continuance of which depended upon her majesty's pleasure? Entirely.

You entered her majesty's service sometime before she went abroad, and were at Naples? Yes.

Did you leave her at Naples? No, her royal highness left me.

Where did you go to from Naples? From Naples I went, with the servants and the baggage and horses, down to Genoa by sea.

Did you remain at Genoa till her royal highness arrived there? No.

Where did you go to from Genoa? Immediately for England.

When did you join her royal highness again? Not until I went out with the news to inform her majesty of the King's death, at Leghorn.

So that the only time you had an opportunity of observing the conduct of her royal highness towards Pergami, was during the time of her royal highness's residence at Naples? Exactly so.

Was it your business to allot the different apartments appropriated to the different individuals of the suite? It was mostly my business.

Do you remember stopping at the country house of Murat, the night previous to your arrival at Naples? Yes.

Did not William Austin that night sleep in the bed-room of her royal highness? That I cannot tell, because I went off immediately in one of the king of Naples's carriages for Naples, to prepare the house there.

Before you left that country-house for the purpose of proceeding to Naples, did you make an arrangement of the apartments for the different individuals composing this suite? Not in that house, because the mareschal de la cour settled that.

Have you no means of knowing whether any apartment there was allotted for William Austin? No.

With respect to the apartment that was occupied by Pergami, had it not a direct communication by a passage with the apartment occupied by her royal highness? Not exactly so; there were several doors.

Was there a small cabinet contiguous to the apartment occupied by Pergami? There were several, two that I remember.

Was there a public passage leading from the bed-room of Pergami to the bed-room of her royal highness? Yes.

Was there, beyond that passage and parallel to it, a small passage leading the whole length? There was.

Was there, at the end of that passage, a small cabinet? Not to my recollection.

Was it so constructed, that a part of the passage might be inclosed so as to form a small cabinet? That I cannot answer what might be done.

Was there a door opening from the room of Pergami into that passage? There was.

Was there another door in that passage opening into the large passage? I believe there was.

Was there a door opening from that passage also into the room of her royal highness? These questions are difficult to answer, because I cannot point out the plan; you are asking me a question I cannot be exactly positive about; if you will point out what you mean, I shall be able to tell you.

[A Plan was shown to the Witness by Mr. Solicitor General, who stated it was not referred to as to actual measurement, and the Witness was asked,]

Assuming the apartment there described to be that of her royal highness, does it correctly point out the other apartments? It is correct, except that there was another door in the passage.

Was there not then a communication along that passage, through this door which you have described, to the bed-room of her royal highness? Yes.

Did any body sleep there? Not that I know of.

The rooms in which Hieronimus slept, and in which Dr. Holland and William Austin slept, all communicated with the other wide and public passage? Yes.

And there was no person slept in that line of communication you have pointed out, between the room of her royal highness, and the room allotted to Pergami? I understood, that sometimes when Pergami was ill, a servant was to sleep there; but I never saw it.

With that exception, there was nothing to interrupt the communication, provided the parties were desirous of communicating between the one room and the other? I do not recollect that there was.

What time in the evening was it that you arrived at Naples? I arrived in the morning.

What time did her royal highness arrive? In the afternoon.

What kind of weather was it? Bad weather, rain.

Rain and wind? Yes.

Who were the servants that breakfasted together at Naples? In the steward's room, there were all the upper servants, Pergami, me, Hieronimus, Mademoiselle Demont, and Barber, lady Elizabeth's servant.

Will you undertake to swear that Pergami breakfasted at Naples in that room regularly? Mostly with us, for he was very fond of meat, and used to go into the coffee-room, what we

called the office, and have some meat for his luncheon or breakfast, he did not like tea; they do not take breakfast in Italy, not tea, not one out of a thousand.

When you say they do not take breakfast, do you mean they do not take tea for breakfast? No; they take it later, and make a meal of it.

When you were talking of the ball at Naples, you closed the ball with your Turkish dress? I, personally?

Not you personally, but that was the last dress you had? I had but one dress.

Was it the last dress her royal highness had? I do not know which was the last dress. I cannot say how many more she had after that, two I saw.

You have spoken of the dress of the peasant, and the dress of the Turkish lady, was the dress of the Turkish lady the last? I believe the peasant was the first, and the Turkish the second.

Did several persons call upon her royal highness on the morning after her arrival at Naples? For several days, several persons of distinction paid their visits.

Do you remember particularly the morning after her arrival? Of course, particularly, at first there were numbers.

Were they kept waiting by her royal highness, or did she appear at first? That I cannot tell exactly, for I did not wait in the drawing-room, I was not page.

Do you recollect going in quest of her royal highness, in consequence of persons being waiting there for her appearance? I cannot charge my memory with that; it might have been so, for it has happened in this country more than once.

You have no recollection of the circumstance on the first day after her arrival? No, not at Naples, I have not.

Have you any recollection of such a circumstance having happened on the second day after her arrival? No; not at Naples at all; I know it has happened at Blackheath once or twice, when I have been up-stairs.

Pergami rode as courier to Naples, what was his duty after he got to Naples? He was obliged to attend afterwards as a page, waiting in the drawing-room, carrying breakfast up, and waiting at table.

Did he share that duty with Hieronimus? Yes.

Was Hieronimus also courier? He had been on the road, but as soon as he came to Naples, he acted as page.

When you speak of her royal highness taking your arm, that was when there were any impediments or steps, or any difficulty of that kind? Yes, in that way.

Or touching you in conversation? Yes, by chance.

You do not mean to say or insinuate that there was any thing further than that? No; God forbid.

As far as you recollect, is this plan [the plan being again shown to the witness] correct, with the single exception of there being some subdivisions there? I cannot decide upon it, because I have not sufficiently taken notice of those rooms to be positive of it, for I never dreamt of such a thing happening.

When was the pension granted to you? No pension was granted to me, it was my salary.

The continuance of your salary? Yes, I had 300*l.* first, and her royal highness was gracious enough to give me 100*l.* a year more, for acting in the place of Mr. Hoper, as her homme d'affaires, when I came to England.

When was that 100*l.* a year added? About three or four years ago.

Have you been out on the continent for the purpose of bringing witnesses to this country? I had a letter from her majesty to Carlsruhe.

Did you bring any witnesses to this country? No.

Had you known Pergami at all, before you saw him at Milan? Never.

You went out you say for the purpose of communicating intelligence of the death of the king? Yes.

Where did you see the Queen at that time? I waited for the Queen's arrival at Leghorn.

Re-examined by Mr. *Brougham.*

Do you recollect in the passage that you mention in which her royal highness's room, and those of the rest of the suite were, whether there was a water-closet there? There was a small place used for that purpose, not an English water-closet.

To whom did you take the letter to Carlsruhe the other day? I carried it to the agent that was sent out, and he kept it, Mr. Leman.

Do you mean that it was a letter to him, or to any other person? It was directed to the great chamberlain, a letter from the Queen, the seal was her majesty's, directed to the great chamberlain.

Examined by the *Lords.*

Lord *Ellenborough.*—When Pergami was first taken into the princess of Wales's service, were you desired to make any inquiries into his character? None, because the marquis of Ghisiliari recommended him for the whole.

Did you consider that sufficient? I thought so at the time, he was only engaged as far as Naples.

Did it occur to you to make any observation upon his manner? Not in an uncommon way.

In the common way? I saw his behaviour always was proper.

Did he appear superior to the situation in which he was hired? He was not quite so chatty as the Italians in general were; but I believe he behaved very properly, so far as I saw.

Is the single circumstance of his not being so chatty as common Italians were, the only circumstance that distinguished him from other couriers? His behaviour in general: I was never acquainted with any couriers in general, but he behaved very well in my opinion.

Did he appear to be superior to persons in his situation? Not particularly, he behaved very properly in his situation, civil, and obliging, and attentive to his duty.

Did you consider him too much of a gentleman to act in the situation of a courier? Not exactly so, he never showed himself in that way, he never refused to do any thing that he was told.

Did you consider that his manners were rather those of a gentleman than of a courier? He might have been rather more of a gentleman than of the lower sort.

Where did William Austin sleep on the journey to Naples? In different rooms, mostly in the same room with the Queen.

Was it the usual custom for William Austin to sleep in the princess's room? On the journey.

Did you receive an order for the alteration of that? None.

In point of fact did William Austin sleep less frequently on the journey to Naples in the princess of Wales's room, than he had slept before you went to Italy? As far as I can recollect on the journey to Naples he always slept there, but I believe at Naples an alteration took place.

You have spoken of a room in which you understood a servant was to sleep while Pergami was ill, do you recollect whether there was or was not a fire-place in that room? I cannot charge my memory to that.

Earl of *Donoughmore*.—You have said that you engaged Pergami for her royal highness's service without having had any previous communication upon the subject with her royal highness? I did.

Were you in the habit of engaging all the servants for her royal highness's family? I was.

Were you in the habit of engaging them all alike, as you did Pergami, without any communication with her royal highness? That was an exception on the journey; he was only engaged as far as Naples.

At Naples? At Naples the other servants, yes.

Was there any other servant engaged in her royal highness's family at Naples, except Pergami himself? Yes, there was Teodoro.

Is Teodoro the brother of Pergami? No, Teodoro Majoochi.

Mention any servant who was engaged in her royal highness's service besides Pergami and Majoochi, whilst you were at Naples? There were several inferior servants, confectioner's men, but their names I cannot recollect.

Was there a sister of Pergami engaged in her royal highness's service while she was at Naples, Faustina? No.

Was there a brother of Pergami engaged in the service during her continuance at Naples? None of the family; none but Pergami was engaged in the princess's service while I was there.

You quitted the service at Naples, and did not return to it again till you went over after the king's death, to announce it to her majesty? Just so.

In what situation at that time did you leave Pergami; was he a servant at that time, or had he begun to be taken up as a gentleman? Page; he was made valet-de-chambre and courier.

And page? Yes.

Having hired Pergami as a servant, you left him as a servant on your quitting her royal highness's service? I did.

You have mentioned, and mentioned truly, the great condescension of her royal highness to all her servants; you were twenty-one years in the service? I was.

During that period, did that condescension of her royal highness ever go the length of admitting any servant to her royal highness's table? No, not to my knowledge.

During that twenty-one years, was there any person who had been hired as a servant to her royal highness, who was, to your knowledge, admitted to her royal highness's table? Not to my knowledge.

Lord *Cathcart*.—You are understood to have stated, that upon the arrival of her royal highness at Naples the first apartment allotted to Pergami was over the apartment of lady Elizabeth Forbes? It was.

Was lady Elizabeth's apartment in the same part of the house with your own? Nearly so.

In the same wing? In the same wing.

Was there any apartment between that of lady Elizabeth and yours? A large passage-room, a corridor.

You spoke of the breakfast of the upper servants; can you recollect at what hour the greater part of the upper servants were assembled at their breakfast? About ten o'clock.

The servants who did not come to that breakfast, but who preferred eating meat; did they eat it about the same time, or later? Sometimes later, sometimes the same time; eleven or so.

Eleven or twelve? Between eleven and twelve.

At what hour did Pergami attend the breakfast? Ten o'clock, mostly.

Lord *Grantham*.—You have said that till the time of getting to Naples, William Austin usually slept in the princess of Wales's apartment? Yes.

At Naples some change took place in that respect? Yes.

You say that you went forward to prepare the apartments? Yes.

Did you allot the apartments to the different members of the suite? I did.

Did you allot an apartment to William Austin? No.

Where did you allot a place or bed for him to sleep? His own bed he slept in, was with us.

Where did you, in the arrangement you made with the rooms, calculate for him to sleep? In the princess's room, as he used to do.

Did you receive an order to make a change in that respect? Not then; no orders whatever; the princess afterwards appointed it.

To your knowledge, did William Austin sleep in the princess's room? Yes, at first.

How soon after you got to Naples did William Austin change from the princess's room to another room? The days I cannot recollect; but her royal highness spoke to me, that he was too old now, and he should have a room to himself.

You do not remember how soon after your arrival that was? No, I cannot.

Was it soon after your arrival? I should think about a week or so.

Did William Austin on any former occasion, to your knowledge, sleep in any room but the Queen's; not at Naples, but on the journey? I cannot recollect that he did.

Subsequent to leaving Brunswick? I cannot recollect.

Earl of *Darlington*.—How long were you in her royal highness's suite, or rather in her household, after she left this country in 1814? Until the 15th of February 1815, when I left Naples.

When did you again see her royal highness? At Leghorn, when I had the melancholy news to carry out.

Did you ever see any impropriety, according to your opinion, or familiarity, between her royal highness and Pergami? Never, never; I am positive not in my presence.

You have mentioned, that you were sent from this country with a dispatch, for the information of her majesty, of the late king's death? I was.

By whom were you sent with that dispatch; by his present majesty's government, or any other person? By her majesty's legal advisers.

Do you know whether any other courier or person came from his majesty's government with the same information? Not to my knowledge.

Marquis of *Lansdown*.—Can you state, from your knowledge, whether at Naples the princess of Wales breakfasted alone with Pergami? Never, never to my knowledge.

Is it probable that such a circumstance could have occurred without your having known it? It might have been, but I do not believe it.

Did Pergami eat and drink with other livery servants? At the steward's room, the upper servants, there were two tables; the livery servants dined below.

Did you ever know any other person that ate and drank at the steward's-room, permitted to dine at the princess's table? Not to my recollection.

At what hour did the princess usually breakfast at Naples? According—no regular hour; eleven, twelve, or one.

Earl of *Lauderdale*.—Do you recollect the princess, the night after you went to Naples, going to the Opera? I recollect her royal highness going to the Opera.

Do you recollect at what hour she came home? I do not, for I had no business to wait.

You say you hired Pergami at Milan? I did.

What wages was he to receive? He had at first forty Louis d'ors, and at Naples it was fixed at fifty.

Do you remember when you first saw him? Yes, I do.

Where was it? In the inn, when he was sent to me by the marquis Ghisiliari.

You had not seen him in the inn before that time? No, I had not.

How was he dressed? He had a scarlet waistcoat on, laced with gold, and a blue surtout-coat, and pantaloons and boots.

When you hired him, did you understand whether he was a married or an unmarried man? No, I never inquired about that.

Did you know, before you left Naples, that he was a married man? No.

Was that known in the family at all? No.

You knew nothing when you left Naples of his having a child? No, not even that.

You had not heard of Victorine? No.

Was it you that proposed to the princess that you should come to England, or did her royal highness order you to come to England? I pointed out the necessity, about different things that wanted arrangement in this country; that it would be necessary to come about the sale by auction of the furniture, and a number of bills unpaid.

When you pointed out that necessity, had you in your view to return, having paid those bills? Her royal highness made me promise that I should return, and bring my family; on those conditions she would let me go.

How came you to stay? Afterwards her royal highness travelled about, and she said she would inform me when she should want me.

Do you remember whether her royal highness informed you, that she should not want you to return immediately? Before I left Naples a long while, two months before, three months before, we fixed it for that period.

You had had no communication subsequently, directing you to remain in England? No, none at all; I expected to go out with my family as I mentioned.

You then waited for orders that you never received? No, I was to be prepared.

Did you wait the three years in a state of preparation, without orders? I was so far prepared that I was ready to go at a moment's warning,

Earl of *Harrowby*.—If you are understood in your description of the house at Naples, a person wishing to go from the apartment of the princess to Pergami's room might do so by going through a passage, and then through a small cabinet, and then to Pergami's room? As far as I can recollect that is exactly the case.

If a person wished to go from the apartment of the princess to Pergami's room, was there any other way by which a person might so go except that which has been mentioned? The passage and the room.

Was there any other way by which a person could go? No other way; there was a door from the garden.

Was there any other way by which a person could go from the apartment of the princess to the room of Pergami, except by going into the garden, and entering Pergami's room by the door which led into the garden? There were two ways to go, through the passage, and through the little rooms.

How many doors were there in the room in which Pergami slept? There were two, to my recollection.

Do you mean to include the door into the garden? No.

There were two doors besides the door into the garden? Yes.

One of those doors opened into a small cabinet, is that so? Exactly so.

Into what room or passage did that door open? Adjoining that to the public passage.

You state that there were three doors to Pergami's room, one of those doors opening into the garden? Not from the room, but joining the room.

Was there any door leading directly from off Pergami's room into the garden, without passing through into the passage, or intermediate room? No, you must go into the little cabinet, as far as I recollect, into the little passage-room.

By that do you mean the room in which you understood a servant to have slept, when Pergami was ill? That or the other, because I never saw a man sleep there, neither did I know whether he had done so.

Were there two doors in the small cabinet in which you state you understood that servant to have slept? Only one to my recollection.

There was one joining to Pergami's room; another cabinet besides that cabinet in which you understood that servant slept? I cannot be positive about that.

Earl of *Rosslyn*.—Were there not two ways by which a person could go from Pergami's room to that of the princess, one by a public passage, another by a smaller passage, and the cabinet? Yes, that is exactly the case.

Can you state the distance between the two rooms, or nearly? I should think the breadth of your lordship's house, or further.

Marquis of *Buckingham*.—If a person had gone from Pergami's room to the princess's, by the public passage, must he not have passed by the doors of the rooms in which Dr. Holland and other members of the suite slept? Yes.

If a person had gone to Pergami's apartment by the other passage, would not that person have reached Pergami's apartment without passing by any door of any room in which any other person slept? Yes.

Lord *Calthorpe*.—During the time that you were travelling on the continent in the service of her royal highness, had you no opportunities at all of observing the manners and appearance of other couriers? I had but one with us.

Had you no opportunity of observing the manners and appearance of other couriers whom you met in the course of your various journies with her royal highness? I never associated with any of them.

Did you never observe them? Not particularly.

In a former answer you stated, that you considered the manners of Pergami superior to those of the lower class of couriers? Of servants.

Do you recollect the names of the various persons whom you found in the suite of her royal highness upon joining her at Leghorn? Not one of them, except Hieronimus, the old servant.

The following question was put at the request of Mr. Brougham,

You have mentioned two ways of going from the room of the princess to that of Pergami, were there any doors to the intervening rooms in the passage to which you at first referred? There were two from the passage.

Do you mean the public passage you have already spoken of? Yes.

Have you not observed, since you entered her royal highness's service, that her royal highness was peculiarly fond of young children? Very much so.

The Witness was directed to withdraw, and the House adjourned.

HOUSE OF LORDS.

Monday, October 9.

The order of the day being read for the further consideration and second reading of the Bill, intituled "An Act to de-"prive Her Majesty, &c.," and for hearing Counsel for and against the same; Counsel were accordingly called in.

Then *Henry Holland*, M. D. was called in, and having been sworn, was examined by Mr. Wilde as follows:

Did you leave England as physician to her royal highness in the year 1814? I did.

Did you proceed to Naples with her royal highness? I did.

Did you remain the whole period of her royal highness's stay at Naples? I did.

What description of visitors did her royal highness receive at Naples? With a very few exceptions, she received all the principal nobility, both English and Neapolitan.

Where did you go to after you left Naples? To Rome, and subsequently to Genoa.

Were you on board the Clorinde with her royal highness? I was.

What description of visitors did her royal highness receive at Genoa? All the English that were at Genoa.

Did you ever, during the period you were with her royal highness, observe that her royal highness avoided the English? I did not.

What was the situation of the house occupied by her royal highness at Genoa, as to its publicity? The House her royal highness occupied at Genoa, was about half a mile distant from the town, but in a part of the suburb very thickly inhabited.

Did you know a person of the name of Pergami, in her royal highness's service? I did.

Did he at any time dine with her royal highness, during her stay at Genoa, at her table? He did not.

During the period that you were with her royal highness at the places you have mentioned, what was her royal highness's conduct towards Pergami? Always that of a mistress to a servant.

What was the conduct of Pergami towards her royal highness? I never saw it otherwise than unpresuming and respectful.

Was there any understanding as to the period during which you were to stay with her royal highness, previous to her leaving England? It was generally understood between us, that I was to remain in her royal highness's service a year and a half or two years.

At what place did you quit her royal highness's household? At Venice.

Had there been any conversation as to your quitting her royal highness's service before your arrival at Venice? There had at Milan.

At what suggestion was it that you went on to Venice? At my own suggestion.

When you left her royal highness at Venice, did you then finally quit her service, or was it understood you were to return? It was understood I was to return.

Did you leave any of the articles belonging to you in her royal highness's house with an intention of returning? I did.

What was the occasion of your leaving her royal highness at Venice, and coming to England? At Milan her royal highness had suggested to me, that if I desired it, I might have an opportunity of six weeks absence, to make a tour in Switzerland: in consequence of this, I expressed my own wish at this period, that, instead of going to Switzerland, her royal highness would allow me a short additional absence, from my wish to go to England on account of private affairs: to this her royal highness assented, and it then became merely a question, whether I should go forward to Venice or go immediately from Milan.

You have mentioned that her royal highness received all the principal nobility at Genoa who happened to be there; do you recollect the name of any of the English nobility who visited her there? Lord and lady William Bentinck, lord Exmouth, lord Malpas; generally, all the superior officers who were attached to the army at Genoa.

Cross-examined by *Mr. Solicitor General.*

Did you go from England with her royal highness? I did.

Do you remember when you were at Genoa, Pergami meeting with any accident? I do not.

At Naples? I do.

Was he in consequence of that confined to his bed for any time? He was, during three or four days.

Do you know who was the servant who attended him during that time? Majoochi.

Did not Majoochi during that time sleep in a small cabinet adjoining the room occupied by Pergami? I am not aware where Majoochi slept?

Do you remember that there was a sofa in that cabinet? I do not.

Are you to be understood by that, that you do not remember one way or the other whether there was or was not? I do not recollect one way or the other.

With respect to the situation of her royal highness's house at Genoa, you state, that it was in the suburbs, but that the suburbs were populous, was it not within a court, and surrounded by a garden, or a garden extending through the whole of the back of the building? There was a small garden in front of the house, and a terrace garden with a wood behind the house.

Were you in the habit of dining every day with her royal highness at Naples and at Genoa? At Genoa every day, at Naples not.

Do you remember being at the Masquerade at Naples, or the masked ball at Naples, that was given to the Neapolitan king? I was not there.

Were you ever at a masquerade at the Theatre San Carlos when her royal highness was there? I was.

With whom did her royal highness go there? I was not aware till the following morning that her royal highness had been there.

Did you remain there during the whole, or nearly the whole of the performance? Only about an hour, as far as I can recollect; certainly a short time.

Are you to be understood that you do not know with whom her royal highness went to the theatre that evening? I do not.

You have stated, that as far as you observed, the conduct of her royal highness towards Pergami was the conduct of a mistress towards a servant; have you upon any occasion ever observed any impropriety of conduct in her royal highness towards Pergami; or have you ever stated that you had made any such observation? I never did observe any impropriety.

Are you acquainted with a minister at York? I am.

Having reminded you of that circumstance, will you allow me to ask, whether you have ever stated, to any person, that you disapproved of the conduct of her royal highness with respect to Pergami? I never have.

Have you ever informed any person whatever, that you did not think the conduct of her royal highness correct, or any thing whatever to that effect? I have not.

You are asked that, not merely with reference to the individual mentioned, Pergami, but whether you have made any observation to any individual whatever with respect to the conduct of her royal highness, derogatory to that conduct? I am so satisfied of the negative, that I can venture to swear it.

Have you always entertained the same opinion, since you have had an opportunity of observing her royal highness, with respect to her conduct? I feel it quite impossible to describe, to my own recollection, the fluctuations of opinion I may have had; but this I am satisfied of, that I recollect no change whatsoever of opinion.

Did you ever state, or did you ever inform any individual whatever, that the conduct of her royal highness was such that no person who had a regard to his character, could continue in her service, or any thing to that effect? I am satisfied I have not.

Did your duty lead you to be much about the person of her royal highness? Very little.

You were engaged then in your own pursuits, your own studies principally? Inasmuch as they did not interfere with my professional duties to her royal highness and her suite.

At Naples particularly, you were understood to state, that you were much engaged yourself? Not more at Naples than elsewhere during my absence from England.

You were understood to say, you did not very frequently dine with her royal highness at Naples? I did say so, or rather I said, that I did not always dine with her royal highness at Naples, and always did at Genoa.

Was not the principal opportunity which you had of observing her royal highness, that which was afforded at the time when you d ned? It was.

Except when you were required professionally to attend her royal highness, you did not attend her either in the forenoon or in the evening, but merely attended for the purpose of dining? Except when her royal highness saw society in the evening, I did not.

During those occasions, when you did dine, Pergami acted as waiter at the table? He did.

Both at Naples and at Genoa? Both at Naples and at Genoa.

How long were you at Milan before you proceeded to Venice? I believe exactly a fortnight.

Do you remember, during the time of your residence at Genoa, any individuals belonging to the family of Pergami joining her royal highness? I do.

His sister Faustina? I was not aware of that.

Do you mean that you were not aware that Faustina was his sister, or that you were not aware that Faustina entered into the service of her royal highness? I was not aware that any person of that name entered into the service of her royal highness.

Did you know a person of the name of Martini? I did not.

Was there a little child that came, of the name of Victorine? There was a little child came, whose name I did not know.

Was there a female came with that child? I saw an elderly person, whom I believed to be the mother of Pergami.

The only female whom you recollect as having come with that child, and having entered the service at Genoa, was the person so described as the mother of Pergami? I do not recollect any other, but it is perfectly possible.

Do you remember a person of the name of Louis Pergami entering the service? I do.

In what capacity did he enter? I am not aware.

Did you see him wait as a servant at table? I did.

Did he wear a livery? He did.

About what period of your residence at Genoa was it, that Louis Pergami entered into the service of her royal highness? I do not recollect.

Was it towards the beginning or towards the latter end, as far as you recollect? As far as I recollect, towards the beginning.

How long did lady Charlotte Campbell continue with you at Milan? Till within three or four days of her royal highness's departure from Milan.

After she left, was there any lady in the service except madame Oldi? There was not.

How soon after lady Charlotte Campbell left, did madame Oldi enter? As far as I recollect, two days afterwards.

You did not travel in the same carriage with her royal highness? I did not; I have occasionally done so, but rarely.

The question refers to the journey from Milan to Venice? I did not.

When madame Oldi first came into the ser-

vice at Milan, were you aware that she was the sister of Pergami? I was not.

How long was it afterwards before you knew that she was the sister of Pergami? I did not know it while in attendance upon her royal highness.

What period of time elapsed after madame Oldi came into the service, before you ceased to be in attendance upon her royal highness? About eight days.

When you arrived at Venice, at what hotel did you lodge? At the Gran Brettagna.

Did her royal highness continue there during the whole period of her residence at Venice? She did not.

How long did she remain there? I rather think, in the hotel itself, but one night.

Where did she go to then? To a house immediately adjoining the hotel, and, I believe, belonging to it.

Was Mr. William Burrell of your party? He was.

Did you and Mr. William Burrell go to the house with her royal highness, or did you remain in the hotel? We remained in the hotel.

Did you dine with her royal highness at the house to which she removed, or did you dine in the hotel? We dined in the house to which she removed.

With her royal highness? With her royal highness.

Do you happen to recollect whether you dined with her every day during your residence at Venice? I believe every day.

Did her royal highness quit Venice before you did, or did you go first? I went first.

Did you ever afterwards rejoin her royal highness? Never.

Do you know whether madame Oldi could speak French? I do not know.

Did you ever hear her speak French? I always conversed in Italian with her.

Re-examined by Mr. *Wilde.*

You have been asked whether the house which her royal highness occupied at Genoa was in a garden; was it in a conspicuous situation, or a private situation? In a conspicuous situation.

Was it a particularly conspicuous situation? The house was raised upon a terrace.

Was it conveniently situated for receiving visitors from Genoa? I believe it was.

You have stated when you returned to England; have you remained in England ever since? No, I have not.

How long have you been in England since you quitted her royal highness's service? I have been three or four times absent from England during that interval, which interval is nearly six years.

Have you generally resided in England during that period? I have; my absences were always for a very short period.

Have you been practising as a physician in England? I have, during the last five years in London.

Have you ever been examined by any one, during that period, respecting the conduct of her royal highness? Never.

Has any person asked you to be examined during that period? Never.

Examined by the *Lords.*

Lord *Erskine.*—Referring to the whole time, and to all the places in which you have stated you were attending upon her royal highness, did you ever observe any indecent, immodest, or improper behaviour in her royal highness? I did not.

Earl *Grey.*—Have you at any time observed, on the part of her royal highness, any conduct calculated to bring disgrace upon the character of this country? I believe I can answer decidedly not.

You were understood to state, that you have never been examined upon this subject, previous to the charge being brought against her majesty before parliament; was any application made to you by any person for information respecting her majesty's conduct during the time you were in her service? No application whatsoever.

Earl of *Lauderdale.*—Did you attend Pergami during his short illness at Naples? I did.

How did you go into his room, by what door? I went in by the passage which communicated at right-angles with the passage in which my bed-room was.

Then you had no occasion to pass through that cabinet which you say was adjacent to the room of Pergami? As far as I recollect I passed through no cabinet in going from Pergami's room to mine.

In going from your room to Pergami's, you entered the corner of the grand corridor, and then into a little passage, and then into Pergami's room? I did.

Do you recollect the dress in which Pergami waited at her royal highness's table at Naples? I do not.

You have said that you do not recollect any female of the name of Faustina in her royal highness's service at Genoa; do you recollect any female who resided in the house, arriving at Genoa about the time of the mother of Pergami and the little child Victorine? My recollections are extremely indistinct upon the subject, and I do not at this moment recollect any such female, but it is very possible that there might have been.

Do you know the room in which her royal highness slept at Genoa? I do not.

Adjacent to the room in which you slept, was there not a room in which Hieronimus slept at Naples? There was.

Next to that room was there not a room in which William Austin slept? There was.

Was there a passage out of that great corridor before you went into the little passage that led you to Pergami's room, was there an entry to the dining-room? The only entry from the great corridor to the dining room

was through the small passage in which the door of my room was placed, as far as I recollect.

Then the door of the dining-room, by which you could get into that great corridor, was directly opposite to the door of your room, was it not? No; in passing from the dining-room into the great corridor, the door of my bed-room was on the right hand.

Where did that passage, that went out of the great corridor towards your room, go to afterwards? To the dining-room, it there terminated.

It did not go past the door of the dining-room, but ended there? It went into the dining-room.

Lord *Grantham*.—A former witness has stated, that upon the same floor where the princess's room and yours and Pergami's rooms were, there was a place used as a water-closet; do you recollect that place? I do not.

A Peer.—Did you ever see her royal highness and Pergami together after Pergami was raised to the rank of chamberlain? I never did.

Earl of *Lauderdale*.—Do you know whether there was a cabinet adjoining to Pergami's room? From my recollection, opposite to the door of Pergami's room, there was a door into a small room, which may be called a cabinet or not.

Lord *Kingston*.—Do you, of your own knowledge, know any thing of the Queen for the last six years? I believe the time since I quitted her royal highness's service was five years exactly in June last.

Lord *Rous*.—To whom did you dedicate the book of travels which you have published? There was no dedication.

Have you never said that you intended to have dedicated that book to the princess? I have not the slightest recollection that I ever said so.

Will you now say, on your oath, that you never said so? I can only say, to the best of my recollection, that I never have said so.

Can you say positively that you never said so? I do not recollect having ever entertained an idea of such dedication.

When the countess of Oldi joined the princess's party, was she introduced to you? She was, as far as I recollect, by her royal highness.

What did her royal highness say upon that occasion? I cannot take upon myself to recollect; I believe nothing more than announcing her name, and that the countess of Oldi would accompany her royal highness to Venice; I recollect nothing more of the circumstance.

Did the princess speak Italian? She spoke it but imperfectly during my stay with her royal highness.

Did she state how she became acquainted with the countess Oldi? She did not.

Did you not ask who the countess Oldi was? I do not recollect that I did, it might be.

Earl of *Rosebery*.—Do you recollect the princess coming into Pergami's bed-room at the time you were dressing his foot during his illness? Certainly she did not.

Do you recollect the princess coming into Pergami's bed-room during any part of that illness? To my knowledge never.

Lord *Redesdale*.—Did you ever attend any others of the princess's suite at Naples during your stay there, besides Pergami? I did.

Who were they? I recollect an attendance on Hieronimus; I have attended her chamberlains during their stay at Naples.

Was there not a garden or a terrace attached to the house at Naples? There was a garden.

Did you ever see the princess and Pergami walking in that garden? Never.

Did you ever see the princess and Pergami walking in the garden at Genoa? Never.

Did you ever see the princess riding on a donkey or a jack-ass there, with Pergami attending? Never; I know that she did ride in the garden, but I never saw her.

Earl of *Liverpool*.—When the princess of Wales introduced the countess Oldi to you, did she introduce her or not as Pergami's sister? She did not.

What length of time was there from the time that she introduced the countess Oldi to you, till the time of your leaving Venice? I believe about eight days.

Are you to be understood, that at the time you left her royal highness at Venice, you did not know the countess Oldi to be Pergami's sister? I believe I did not.

Lord *Dynevor*.—In what language did the princess of Wales and madame Oldi converse? As far as I can recollect the circumstance, the princess spoke some words of Italian; whether the countess of Oldi spoke French or not I do not know.

You have stated, that during your stay at Genoa, you dined almost every day with the princess? Almost every day.

During that time, did Pergami ever sit down to dinner? Never.

Did you dine every day with the princess? I believe every day; I may perhaps be allowed to remark, that I was absent on two or three short excursions from Genoa, one of which detained me two days.

Earl of *Harrowby*.—Did you ever hear the princess and countess Oldi converse together in French? I do not recollect it.

Did you ever hear the countess Oldi speak French at all? I do not recollect; I always conversed myself with her in Italian.

What kind of Italian did the countess Oldi speak? It appeared to me very much the Italian spoken in Lombardy.

Is that the Italian spoken by persons of fashion and education? I have observed it to be spoken by persons of fashion and education when conversing with each other; but

almost all such persons of fashion and education are capable of speaking the purer Italian.

Did you ever hear the countess Oldi speak the pure Italian? I find it very difficult to say, on recollection, whether it was so or not.

Was conversation in the dialect of Lombardy easily intelligible to a person who knew Italian from books only? I can only say, from recollection, that I did not find any difficulty in conversing with the countess Oldi; my recollection will not carry me beyond that.

Was that language easily intelligible to a person who had a very imperfect acquaintance with Italian? To that question I find it difficult to give an answer; I may remark that I had very few opportunities of conversing with the countess Oldi.

Lord *Auckland.*—Did the language of countess Oldi differ more from pure Italian than the English language spoken by some Scotch persons of education and family differ from pure English? I find it imp ssible from the small recollection I have, to answer that question.

Lord Chancellor.—Did Pergami ever dine at her royal highness's table when you dined there? Never.

Lord *Calthorpe.*—Do you recollect her royal highness ever, upon any occasion, having expressed herself dissatisfied with the situation of her house at Genoa? I do not remember her royal highness having made such expression; but I do recollect her royal highness at one time going to see another house in the neighbourhood of Genoa, which I understood, for the moment, she thought of taking. She did not take it.

Did you hear any reason assigned by her royal highness for wishing to change her residence? I recollect that a reason was assigned, but whether by her royal highness I do not recollect; that she wished to have a situation where there was greater tranquillity; but I do not recollect that that reason came from her royal highness herself.

Was then the situation in which the house that she occupied at Genoa stood, peculiarly subject to interruption of any kind, that might have rendered it annoying? I am not aware that it was.

You were understood to state, that during the whole time in which you were in her royal highness's service, Pergami occupied the situation of a menial servant? He did.

Do you recollect at any time, or under any circumstances, her royal highness conducting herself towards Pergami in a manner that you could consider at all inconsistent with the relation in which a princess of Wales ought to stand towards a menial servant? I must remark, in answer to that question, that her royal highness's demeanor towards all her servants was extremely familiar. I should say at once, that I never observed any difference between her manners to Pergami and her manners to any other of her servants; I may be perhaps allowed to add to that, to her principal servants.

Then you are correctly understood as intimating that the degree of affability that her royal highness showed towards Pergami, was fully to be accounted for by that kindness and condescension which she generally showed to all her upper servants? I have never observed myself any difference in the degree of kindness or familiarity to him in preference to the other principal servants.

At what period did you join the service of her royal highness? When her royal highness left England.

In 1814? In August 1814.

How long did you remain in her service? Exactly ten months, from August 1814 to June 1815; my service and my salary from her royal highness did not cease in June 1815.

Did you consider Pergami as an upper servant in her royal highness's suite? As an upper servant.

Lord Chancellor.—Did any of those principal servants, whom you mentioned in answer to the question last but two, dine at the Queen's table? None.

The following questions were put, at the request of Mr. Brougham.

Has your salary ceased since the time referred to? It has.

When? Fifteen months exactly from the time I entered into her royal highness's service.

Had you any pension after retiring from her royal highness's service? None whatever.

The Witness was directed to withdraw.

Then *Charles Mills*, esq. was called in, and having been sworn, was examined by Mr. Denman, as follows:

You generally reside at Rome? I do.

Did you reside there in the summer of 1817? I did.

Have you had the honour of seeing the princess of Wales there? I called upon her royal highness the day after her arrival.

Do you know how long she remained at Rome? I remained there myself but twelve days, therefore I cannot tell how long she remained at that period.

You left it before her royal highness? I did.

Had you the honour of her royal highness's acquaintance before that period? I had.

During the twelve days you have spoken of, were you repeatedly at her royal highness's house or hotel? I dined at the Gran d'Europa most days while her royal highness remained there.

With her royal highness? Yes, with her royal highness.

Can you inform the House whether at that time she was visited by persons of high rank? She was.

Will you mention some of their names? The persons that I saw at her royal highness's table, were but few, the baroness Ancajanni, who was appointed by the government to attend her royal highness.

Was any other lady of rank appointed by the government to attend upon her royal highness? The duchess Zagarolla.

Was she attended by a guard of honour also? She was, and had all other marks of distinction prepared for her, such as a box to see the ceremony of the Corpus Domini, the same as other royal personages who were then resident at Rome.

You have mentioned the two ladies appointed to attend upon her royal highness, as having dined with her; do you recollect whether other persons of rank of either sex dined with her also? I remember lord Kilworth to have dined with her: the abbé Taylor was her constant guest.

Did any of their eminences dine there? I never saw them.

At other times besides dinner did persons of rank pay their respects to her royal highness, and attend her parties? Her parties had not commenced while she remained at the Gran d'Europa, but persons of rank came to pay their evening visits.

Was Pergami at that time her royal highness's chamberlain? He was.

Did he in that character dine at her royal highness's table? He did.

Have you often seen her royal highness and her chamberlain Pergami in company together? Frequently.

Did you ever see the smallest impropriety of conduct between those two individuals? Never.

Does that answer apply to the period of her royal highness being at Rome while you were there, and to other times also at which you may have seen her? Perfectly.

Did you pay your respects to her royal highness at Pesaro in the year 1819? On my return from Venice I called at her royal highness's villa at Pesaro.

How long did you remain there? I remained there two days; her royal highness was out airing when I called, but on her return she sent her carriage with one of her equerries and William Austin to desire that I would come to her house that evening?

And you went? I did.

How long did you remain on that visit? I arrived at her house about seven o'clock or eight o'clock perhaps; I remained there the evening, supped, and returned to the inn.

Did you pay your respects to her royal highness on the following day? Her royal highness sent her carriage and her equerry to show me whatever was worth seeing in the town of Pesaro.

Did you afterwards wait upon her royal highness at her villa? I returned there to dinner.

And dined with her? And dined with her.

Did you spend the evening in company with her royal highness? After having walked with her royal highness about the grounds, I remained about an hour, and then proceeded on my journey, as I wished to go as far as the fair of Sinigaglia, it being the last day of the fair.

Had you the honour of paying your respects to her majesty after she became the Queen of England? I was at Rome when her majesty arrived there.

When was that? In 1820.

State the month, and if possible the day of the month? I hardly know the month, it might be February: her majesty had received an account of the king's death.

Had she assumed the title and dignity of Queen of England? She had.

Had she two ladies of honour then appointed to attend her? She had not.

Was any guard of honour in attendance at her hotel? There was none.

Nevertheless, did persons of rank, both of Rome and England, do themselves the honour to pay their respects to her majesty? Several.

Have the goodness to name them? The countess ——; I speak of those who wrote their names in her majesty's book.

Did you see them do so? I saw the book.

What persons of rank did you see attending at her majesty's hotel, or paying their respects there? I saw none; I only heard of it, and saw it in the book.

Do you know whether it was understood that the funeral of his late majesty had then taken place? I think it had.

Was Pergami chamberlain to her majesty in the year 1819, and in the year 1820 also? He was.

Was there any difference in the general appearance of her majesty's household between those three periods? None.

Did you ever see any thing in the conduct of those two parties towards each other in the slightest degree derogatory to the honour of the English empire, or likely to wound the moral feelings of this country? Never.

Independently of the conduct of her royal highness and of her majesty towards Pergami, did you in other respects ever perceive that her majesty conducted herself, either in public or in private, in any way to which a just exception could be taken?

The *Attorney General* objected to this question, as being not only a leading question, but one entirely travelling out of the point of inquiry.

Mr. *Denman*, with much animation, contended for the propriety of the question he had put. Did not the bill, he asked, both in letter and in spirit, arraign her majesty's conduct in public and in private? did it not

describe it as being derogatory to the dignity of the Crown, and disgraceful to the moral feelings of the people of this country? Were not these the terms used to define her majesty's conduct in the very preamble of the bill? Here is then a man who has seen her majesty's conduct in Italy at three different periods; who had had frequent opportunities of witnessing it; and who positively and distinctly, speaking from his own actual knowledge, negatives the assertion in the bill. Was he then, while combating the bill, to be refused the benefit of so material and so proper a witness?

The *Attorney General* said, he did not mean to restrict his learned friend from going into any inquiry which he deemed material—he only objected to his proceeding to question the witness in so leading and so general a manner.

Mr. *Brougham* denied that the question just put was a leading one. Her majesty's conduct was generally impugned by the bill, and he wanted to show that it was unjustly impugned. This witness had competent means of forming an opinion.

The Earl of *Liverpool* said, he certainly saw no objection to the question being put; but he could not help suggesting to the learned counsel who put it, whether, if evidence on the one side of general conduct, without touching on the special charge, were admitted, it would not be open to the other side also to adduce evidence as to general conduct?

The Counsel were informed, that the question did not appear to the House to be a leading question.

The question was proposed.

I never did.

At all the times at which you have seen her royal highness and Pergami together, did he treat her with the respect that was due to her exalted rank? I never saw him behave otherwise than with the utmost respect.

There was no degrading familiarity? None whatever.

Cross-examined by *Mr. Attorney General.*

Did Pergami dine at the table every time you dined with her royal highness at Rome? He did.

Where did he sit usually? He had no particular place that I can recollect; I have seen him at various parts of the table.

You were understood to say, that besides seeing Pergami at table with her royal highness, you have seen her royal highness and Pergami at other places in Rome? I saw them attending the Corpus Domini together; I saw Pergami in attendance upon her royal highness when they were at the ceremony of the Corpus Domini.

In what manner was he in attendance at that ceremony? As chamberlain.

Where was her royal highness? In a box prepared for her by the government.

Where was Pergami? Behind her royal highness.

Standing or sitting? When I saw him, he was standing.

Were there any other of her suite with her at that time? Several.

How many times did you dine with her royal highness at Rome? Upon the first occasion I dined with her three or four times certainly.

Three or four times? Three or four times.

As many as three or four times? Quite as many.

You state, that besides the persons whose names you have enumerated, other persons of distinction called upon her royal highness at that time at Rome, in the year 1817; can you enumerate the names of any of those other persons? The ladies that were in attendance upon her were generally there, and many others of the Roman nobility, certainly and the cardinals; I met the cardinal Gonsalvi going up the stairs as I came down one day.

If there were many other perons, probably you can have no difficulty in enumerating some of their names? I usually dined with her royal highness, and after dinner I quitted her; the persons usually came in the evening.

Were you there in the evening? Once or twice; her royal highness was lodged at the inn at this time; she had no established house at Rome.

When you say, that other persons of distinction visited her royal highness in the evening, are you speaking that from what you have heard, or from your own personal knowledge? From my own personal knowledge, the evening that I passed there.

Then the evening or evenings you were there, can you enumerate the names of any of those persons of distinction, besides those you have already mentioned? The evening I was there, I do not remember other names than those I have mentioned.

You have stated, that in the year 1819 you visited her royal highness at Pesaro, that when you called she was not at home, but that one of her equerries and William Austin afterwards called upon you; who was that equerry? The chevalier Vassali.

Did Pergami sup at Pesaro with her royal highness and yourself? He did.

Did he dine with you the following day? He did.

What other persons dined at Pesaro on that occasion? There were no persons but those of her royal highness's establishment.

Can you mention the names of the persons of her royal highness's establishment who dined with you at Pesaro? Vassali, Pergami, the countess Oldi, William Austin; the names of two other persons who were at table I was unacquainted with.

Was Louis Pergami one of those other persons? I cannot say that he was, for I am not sure that I am acquainted with his person.

Of course, whether he was one of those two whom you dined with, you cannot say one way or the other? I cannot.

Are those occasions that you have mentioned the opportunities you had of seeing her royal highness, at Rome, and at Pesaro? They were.

And the only occasions? The only occasions.

Re-examined by Mr. *Denman*.

Had you the honour of being acquainted with her royal highness before she left England? I had.

Examined by the *Lords*.

A Peer.—Did you feel any objection to sitting down to table with Pergami? I cannot say that I did.

Earl *Grey*.—You are understood to have said you usually reside at Rome? I have said so.

When did you come last from Rome? I left Rome in the month of April last.

Did you then leave Rome in consequence of receiving any intimation from hence that there was to be, or likely to be, a proceeding against the Queen? Not at all; I came on my private affairs.

Earl of *Liverpool*.—In the year 1817, when you were in the habit of visiting her royal highness at Rome, did you see any English lady in her society? At the period of the year that her royal highness came to Rome, there were but few English. I do not remember to have seen any English lady.

Earl of *Mansfield*.—Do you know whether any application was made for a passport, to the government of Rome, by her majesty the Queen of England? I know that application was made to the British consul for a passport.

Lord *Falmouth*.—When you dined or supped in company with the countess Oldi, were you introduced to her? I was introduced to her the first time I saw her.

Did you make any observation upon the manners of the countess Oldi? Her manners were unobtrusive and natural, I should say.

Did you consider that they were the manners of an Italian lady? I did not consider them otherwise at all.

You considered that the Italian she spoke was good, was pure Italian? She spoke with the accent of Lombardy, as all persons from that country do, that I had ever conversed with.

You did not consider that the accent of Lombardy, was indicative of any vulgarity? I did not.

Lord *Ellenborough*.—Was the language of the countess Oldi grammatically correct? I am not able to answer that question; I do not consider myself sufficiently versed in the Italian language to answer that question certainly.

Are you able to say whether the language spoken by the countess Oldi was generally correct; did you ever observe any decided errors? I never did.

Is there not a difference in the dialect of Lombardy, as well as in the accent of Lombardy, from other Italian? I am not able correctly to answer that question; I have not lived sufficiently in the Milanese to answer that question.

On what occasion were you first introduced to the countess Oldi? In 1817, when her royal highness arrived at Rome.

Earl *Grey*.—How long have you been in England? I arrived in May.

Since your arrival in England, and previous to the charge being brought in parliament against the Queen, was any application made to you for such information as you might have respecting her conduct when you had seen her in Italy? Never.

The Witness was directed to withdraw.

Then *Joseph Teuillé* was called in, and having been sworn, was examined as follows by Mr. Williams, through the interpretation of Mr. Pinario.

Were you formerly colonel upon the staff of the viceroy of Italy? Yes.

And afterwards upon the staff of France? Yes.

Are you a chevalier of the orders of the Iron Crown and the Legion of Honour? Yes.

Had you a brother who was a general of division? Yes.

Do you know Pergami? Yes.

Where did you first know him? I knew him filling the functions of quarter-master (mareschal de logis) in the first Italian regiment of Hussars.

In what year was that? Towards the end of the year 1800, and the beginning of 1801; it was the eighth or ninth year of the French republic.

Was that brother, of whom you spoke just now, the general that commanded Pergami at that time? My brother, the general of brigade, commanded a brigade of cavalry, composed of two regiments, the first regiment of Hussars, and a regiment of Chasseurs.

Were you aide-de-camp to your brother? I was aide-de-camp to my brother, the general Teuillé.

What was the conduct of Pergami at that time?

Mr. Parke objected to the question; on the ground that it did not go to affect the merits of the case.

The Counsel were informed, that the question might be put.

The question was proposed, and the witness said,

The conduct of an inferior officer, non-commissioned officer, who has never done any thing to reproach himself with; in short, the conduct of a good soldier.

Was general Galimberti acquainted with Pergami at that time? Yes, he was.

Did they come from the same part of the country? They are of the same country.

Did you ever see Pergami at either of the parties, either dinner, or evening parties of the general? No.

Did you continue acquainted with Pergami at that time, or was there some interval before you saw him again? A great deal of time intervened.

Did you ever see Pergami at the evening parties of the general? No, I did not see him; but I know that he went to the house of monsieur Gallimberti.

As there was some interval, where did you see Pergami next; in what country, and at what time? On the frontiers of Spain.

In what year or years? It was either in the year 1808 or 1809; it was at the time when marshal St. Cyr commanded the division of the French army which proceeded to Spain, but I cannot exactly say the time, but it was about that time.

In whose service was he at that time? He belonged to the household of general Pino, who commanded a division of the Italian army.

Do you know in what manner he was treated by general Pino? With a great deal of confidence, because he was the person who had general Pino's whole confidence.

Did you visit general Pino yourself? I visited general Pino when the business of the service required it.

Did you see Pergami on those occasions? I have seen him sometimes, not always.

Do you know, of your own knowledge, whether he occasionally dined with general Pino at the general's parties? I cannot affirm that.

In what estimation was he held at that time by general Pino and the officers; how was he received and treated by them? With the greatest confidence; as a man who enjoyed the whole confidence of a person in the situation of general Pino.

In what esteem was he held by the officers? He was very well liked, and esteemed as an honest man *(comme un honnête homme)*.

Cross-examined by Mr. *Parke*.

Did you know Pergami when he was in a prison at Lodi? I never heard any thing of it.

You say that he was in the household of general Pino, was he not a servant in general Pino's family? He was as confidential courier *(particulier)* of general Pino, and entrusted with all his affairs, with all the affairs of his house.

[*To the Interpreter.*]—Is "confidential" the proper translation of the word "*particulier*"? It has different meanings; it may mean confidential, or his private courier.

[*To the Witness.*]—What do you mean by the term "particulier;" a private courier, or in what other sense do you use that word? He was a courier particularly attached to general Pino, as a person of trust or confidence

You did not see any thing of Pergami between the year 1808 or 1809, when you saw him in the service of general Pino? No.

At what period, in the year 1808 or 1809, was it you saw him in the service of general Pino? I have already stated that I do not particularly recollect the year; it was when general Pino's division was marching towards Barcelona.

Can you say at what time of the year it was? It was at the beginning of winter.

You cannot say whether that was the beginning of the winter of 1808 or 1809? I cannot precisely state the period; I know it was the beginning of winter.

How long had you an opportunity of seeing him in general Pino's service? As a division does not always remain together, a brigade which was detached from the rest of the division; that being the case, I cannot say exactly how long he remained where I was.

Was the army in march at the time you knew him? We were not actually in march, but we were about to move in order to pass the river Fluvia.

Did you see whether Pergami was in a courier's dress or not? Always in common clothes.

Have you been in England before you were here this time? Never.

When did you come to London? I first came to London nearly six weeks ago, or a month and a half ago.

Have you remained in England ever since you came? The first time I remained in England twenty days.

Where did you go afterwards? To Paris, where I am established.

Did you remain at Paris, or did you go any where else? I never moved from Paris, for we cannot quit that place without leave from the general of division and the minister of war.

Were you at Beauvais when you went to Paris? In going to Paris I was with a messenger; the road to Paris is through Beauvais, but it so happens that that town is passed at night, because it is with a messenger who never stops.

You are understood to state, that you passed through Beauvais in the night-time? Yes, because the courier regularly passes through Beauvais in the night, and I left Calais with the courier, who goes on regularly without stopping.

Do you know a person of the name of Rossi? I have known several persons of the name of Rossi.

Do you know a person of the name of Rossi who comes from Lugano? I know a family of the name of Rossi who are of Lugano.

Did you see that person either at Beauvais or at Paris? I saw him once at Paris.

Was that when you were at Paris the last time? No, it was previously to my coming to England the first time.

How long ago is that? It was previously to my coming, it may be between two and a half and three months ago.

Had Rossi any persons with him that were coming from Lugano? I do not know.

Had he any persons with him at the time you saw him? He was alone, there was nobody with him.

Had you heard of the tumult that had occurred at Dover at that time? I read the account of it in the French papers.

Did you communicate that to Rossi? No, there was nothing mentioned of that.

At no time at Paris? I never spoke of it to him, because I saw him but once, and that was only for a quarter of an hour at the most.

That was the only time you saw him? It was the only time; and I only remained with him, perhaps, a quarter of an hour.

Who applied to you to come here? The Queen, by a letter of her's.

Examined by the *Lords*.

Lord *Cathcart*.—At the time the first hussars were in the brigade commanded by your brother, what was the rank next above that of a private hussar? The first or lowest degree is the common hussar, then comes brigadier, or corporal, then mareschal de logis, that is not the same thing as a quarter-master.

Do you mean that mareschal de logis is that which is most equivalent to what a serjeant is in the foot? It corresponds with the rank of serjeant in the infantry.

You are understood to have said, that you saw Pergami confidentially employed as a courier by general Pino?

The following question and answer were read over to the Witness:

"What do you mean by the term "particulier;" a private courier, or in what other sense do you use that word? He was a courier particularly attached to general Pino, as a person of trust or confidence."

Did you not understand Pergami at that time to be general Pino's own servant? There is some difference; a particular courier, attached to a person of rank, is not looked upon as a servant, as a domestic, in Italy.

From whom did you understand that he received his salary? I know nothing of it, because I did not belong to the household of general Pino; I was a superior officer there, and could not meddle with general Pino's private affairs.

You did not understand that he was in the service of the public, or of any department of public service? I have twice stated, that Pergami was attached as courier particulier to general Pino; farther I cannot tell, because I did not belong to the house of general Pino; being a superior officer, I did not trouble myself with his private affairs.

The Witness was directed to withdraw.

Then *Carlo Forti* was called in; and having been sworn, was examined by Mr. Brougham, through the interpretation of the Marchese di Spineto, as follows:

Were you a courier in the service of her royal highness? I was.

When did you enter it? On her departure from Milan.

Do you recollect whether that was in the year 1817? Yes.

In whose service were you immediately before? Before I entered the service of her royal highness I was in the service of the viceroy of Italy.

What were you in the viceroy's service? As chief cabinet courier.

You have said, that you entered the princess's service at the time that she was going away from Milan; where was she then going? She was going to Rome.

Did you apply to be taken into her service? I did.

From what motive did you make that application? Because at that moment I was out of service.

You have stated, that the princess was going to Rome, have you yourself any relations there? Brothers.

Any other near relations? The duchess of Torlonia.

The wife of the banker there? Yes.

What relation is the duchess to you? She is my aunt.

On the journey from Milan to Rome, in what carriage did the princess travel? In a small English landaulet.

How many other carriages had her royal highness with her upon that occasion? Two more.

What sort of carriages were those two? One was a bastardella, and another was a caratella or calash.

What sort of a carriage is a bastardella? It is a covered carriage, with four seats inside.

Was the landaulet of which you have spoken an English carriage? It was.

Was it a different looking carriage from the bastardella? Certainly.

Was that a carriage of a perfectly different appearance? Quite so.

Was it also perfectly different in appearance from the caratella? Certainly.

Had her royal highness any other carriages than those three with her upon that journey? No.

Upon that journey, in which of the three did her royal highness herself travel? In the landaulet.

Had the landaulet glasses, as is usual with such carriages? It had.

Had it Venetian blinds? It had.

Had it any curtains? It had.

What sort of curtains? Silk.

Do you mean silk curtains which drew aside, or which drew up and down with a

spring? The curtain was pulled down by the means of two strings which kept it confined, and was lifted up by a spring.

Do you remember her royal highness leaving Rome to go to Sinigaglia? I do.

Did her royal highness travel by night or by day? By night.

Do you know where they slept on the first night on the road? On the road.

Where did her royal highness rest the first day on the road? At Otricoli, at nine in the morning.

Where did her royal highness rest the second day? At ten in the morning, at Nocera.

About what time did they arrive at Sinigaglia? On the following day at eleven o'clock.

Do you know a person of the name of Sacchi or Sacchini, who is in her royal highness's service? I know Sacchini.

Did he accompany her royal highness on the journey you have just been speaking of? He did.

How did he travel upon that journey? From Milan to Ancona on horseback, and from Ancona to Loretto; and from Loretto to Rome, he set out a day before her royal highness in the caratella in the evening, and there I mounted myself on horseback, and accompanied her royal highness as far as Rome.

Did you mount on horseback at Ancona or Loretto? At Loretto.

From Rome, when her royal highness went to Sinigaglia, how did Sacchi travel, and how did you travel? He travelled in the Caratella before, and I on horseback with the carriages.

How long before did Sacchi set out upon that journey in the caratella? Two hours before.

What was his business to do on that journey, going before her royal highness? To order horses, and to pay for the horses.

How did you travel yourself upon that same journey? Always on horseback.

Did you accompany the carriage on horseback? Always.

When you came near any stage, did you go before her royal highness's carriage? About half an hour before reaching the end of the stage.

Do you mean to say, that, except that half mile before reaching the end of the stage, you always rode close to her royal highness's carriage? I do.

Did Sacchini order horses for her royal highness in the way you have describedgoing before her royal highness in the caratella the whole of the way from Rome to Sinigaglia? He did; and he paid for them at the same time.

Did any other person ride as a courier with her royal highness on that journey, except yourself? No, there was no other.

If there had been any other must you have seen him? Certainly, because I was always there.

Did any other courier or person on horseback, except yourself, accompany any of the other carriages upon that journey? No one, except myself.

Who travelled with her royal highness in the landaulet upon that occasion? Her royal highness, countess Oldi, Pergami, and Victorine.

In whose lap did Victorine generally sit upon that journey? Very often she was on the knees of her royal highness.

Did you see her also in the morning upon the countess Oldi's knees sometimes? Sometimes.

Where did the countess Oldi sit in the carriage? In the middle.

Do you mean in the middle between the baron and her royal highness? Her royal highness on the right, the baron on the left, and the countess in the middle.

Do you recollect, whether during any part of the journey from Milan to Rome, or from Rome to Sinigaglia, the countess Oldi was in the other carriage from her royal highness? At Loretto she fell ill, and went into the second carriage.

Whose place did she take in the carriage? She took the place of Demont.

Where did Demont go when madame Oldi took her place? She took the place of madame Oldi.

Do you mean she took madame Oldi's place next her royal highness in the middle of her landaulet? I do.

Was this upon the journey from Loretto to Rome, or from Rome to Sinigaglia, that this accident happened? From Loretto to Rome.

After leaving Rome to go to Sinigaglia, did Demont, or any body except madame Oldi and the baron, ever travel in the carriage with her royal highness? There did not.

On that journey was madame Oldi always in the carriage and always in the middle, as far as you saw? She was.

Did you always see her in this situation in the morning, when her royal highness arrived any where? Morning as well as evening I saw her, for I was always there,

In travelling as a courier with the carriage of her royal highness, was it your practice for any purpose to go up to the carriage for the purpose of speaking to her royal highness, or any other person in the carriage, at any time? When they arrived at the end of a stage, and the carriage stopped, then I knocked against the door of the carriage, and I asked whether they wanted any thing.

In travelling in that way by night, in what way were the windows of the carriage? In the front there was a glass, and on the right and left by the side sometimes during the night they put up the Venetian blinds.

Could any air, though in a small quantity, then, when the glass was down, and the window altogether open, enter by the Venetian

blinds? There was the air that came in by the means of the spring opening the Venetian blinds.

Do you remember about the time that the change took place, and madame Oldi going into the other carriage, and coming back, any accident happening? At Foligno the horses ran away, but this happened in going to Rome.

Do you remember on that occasion any accident happening to the work bag, or any other bag of one of her royal highness's maids? I do not.

Did that accident at Foligno, the horses running away, happen at the time that madame Oldi changed her place in the carriages? It did.

Did you ever see the baron kiss the princess at any time upon taking leave of her, or at any other time? I never saw him kiss the princess.

Did you ever see the baron take leave of her royal highness upon any occasion? Yes, I have.

What did the baron do, in taking leave of her royal highness when you saw him? He kissed her hand, and nothing else, with much respect.

Did you yourself, on taking leave of her royal highness, on any occasion, kiss her hand? I have.

Did the other members of her royal highness's suite do the same thing? Yes, equerries, chamberlain, and all those gentlemen who came to pay visits to her royal highness.

Were you in the habit of kissing the hand of persons of rank with whom you had formerly served as courier? I did so to the vice queen, as well as to the empress Josephine.

Cross-examined by *Mr. Attorney General.*

Are you still in the service of her majesty? I am.

Did you travel with her as courier when she came to this country? I did.

When did you last see Pergami? The last time I saw him at St. Omer's.

Did the baron Pergami travel with her majesty the Queen as far as St. Omer's? He did.

Do you know the wife of Pergami? I do.

Where does she live? At Milan.

Pergami has the title of baron della Franchina? He has.

Is his wife styled the baroness della Franchina? I never heard that so.

Have you ever seen Pergami's wife in company with her royal highness? I have never seen her.

Whereabouts does Pergami's wife reside, at Milan, or the neighbourhood of it? She lives in Milan.

In what part of Milan? She lives near the Porta Ticinese; but I should know the streets very well, I should be very well acquainted with the streets, to tell you what the street is.

Have you ever been in the house where she lives? I have.

What sort of a house is it in which she lives? It is a neat house, that fits a private individual.

In what manner does the wife of Pergami live there? She lives as all other persons can live.

In what sort of style or situation? In the style of a private person.

Describe more particularly the style in which she lives? For my part, to tell the truth, I have never been in her house to enquire what she does or does not do.

Has she any servants? She has servants, and a waiting-maid.

How many servants? She has a man servant and a maid who performs the office of a waiting-maid.

How long has she lived in the house in which she now resides? I have always seen her there, but I know not where she lived before.

Do you know the name of the man servant who attends her? I do not know, because I have never been acquainted with him.

How do you know that she has a man servant? I have seen him in the house when once I went to see, but his name I do not know.

Then you have been in the house? I have just told you that I have once been in her house.

When was that? How do you expect that I should remember that; I have been once; it may be about a year ago.

Do you mean to say it was about a year ago? I do.

Upon what occasion was it that you went to the house a year ago? I carried a letter to her.

From whom? From her husband.

Where was Pergami at that time? He was at Pesaro.

Did you go from Pesaro to Milan with this letter? I did not.

Upon what occasion was it you went to Milan at that time from Pesaro? For some business of her royal highness.

Did you go alone? Alone.

How long were you at Milan at that time? two days.

Where did you go from Milan? To Pesaro.

Do you know others of the family of Pergami? There are other relations; there is a certain Louis Pergami, his brother.

Is that the only other relation of Pergami whom you know? There are other persons, his cousins.

What are their names? One is called Bernardo Pergami.

What the others? The other, Francesco Pergami Valolta.

Are those the only relations of Pergami that you know? There are other relations, but I do not know them all.

Do you know any others? There are his sisters.

What are their names? One I know is called Faustina Pergami.

You do not know the others? The others I do not know.

Have you ever seen the countess Oldi? I have.

Is she any relation of Pergami? She is his sister.

Where have you seen the countess Oldi? I have always seen her at the house of her royal highness.

Do you remember any other relations of Pergami? I do not remember any others in the house of her royal highness.

You are then to be understood that all those whom you have mentioned are in the house of her royal highness? They were once.

In what situation was the countess Oldi? Dame d'honneur.

In what situation was Faustina? She kept the account of all the linen.

In what situation was Louis? Equerry.

In what situation was Bernardo, the cousin? He was prefect of the palace.

What was Francesco? The accountant.

You have lived with her royal highness for four years, do you mean to say there were no others of the family of Pergami living with her royal highness during any part of that time? I have seen no other.

Do you know Pergami's mother? I do.

Did she ever live in her royal highness's house during the time you were there? She came once to pass a few days at Caprili.

How long did she remain at Caprili? About two months, more or less; I cannot well remember that thing.

Where did the mother live at other times, do you know? She lived at Milan.

Whereabouts in Milan? In the town, in a house.

In what part of the town? I do not know.

When the mother was at the Villa Caprili, where did she dine? Sometimes she dined with her royal highness, sometimes she dined by herself.

Where did Faustina dine? Always in her own room.

Do you mean to swear that Faustina always dined in her own room? I cannot swear that she always dined in her own room, but I saw that she did not dine with the others, and always dined by herself.

Where did Louis dine? Louis dined with her royal highness; he did sometimes, and sometimes he did not.

Where did Raggionato Francesco dine? At our table.

Always? Always.

Do you know Faustina's husband, Martini? Martini, I do.

Where does he live? At Milan.

Did not Martini at one time live at the Villa d'Este? I do not know, because at that time I was not in the house, I was not in the service.

You have stated that Pergami accompanied her royal highness to St. Omer's, did any other of Pergami's family accompany her royal highness to St. Omer's? No one else of the family.

Where did you leave the others of the family? Some at Milan, some at Pesaro.

You have stated several journies you took with her royal highness from Milan to Rome; who were upon that journey? Countess Oldi, baron Pergami, Mr. Hownam, the chevalier Vassali, and Louis Pergami; mademoiselle Brunette and mademoiselle Demont, and the little Victorine.

Who travelled in the caratella from Milan to Rome? Which caratella?

You were understood to distinguish one of the three by the description of a caratella? Mr. William and monsieur Vassali.

Who travelled in the bastardella? Mademoiselle Demont, mademoiselle Brunette, and Mr. Hownam.

Only three? Only three.

How did Louis Pergami travel? Louis Pergami arrived at Rome one day before us; he set out before.

What carriage did Louis Pergami travel in? In a caratella with two seats.

Was that another carriage belonging to her royal highness? It was.

How many carriages accompanied her royal highness when she went from Ancona to Rome? Her own and two more carriages.

How many carriages accompanied her when she went from Rome to Sinigaglia? Three carriages, including her own.

Who travelled from Rome to Sinigaglia in the bastardella? Mademoiselle Demont, mademoiselle Brunette, and Mr. Hownam.

Who travelled in the caratella? Mr. William and Mr. Vassali.

Who in the carriage in which her royal highness travelled? The countess Oldi, her royal highness, the baron, and Victorine.

How did Louis Pergami travel from Rome to Sinigaglia? He set out before.

With whom, by himself? In the caratella, by himself.

Those were the four carriages belonging to her royal highness? They were.

Did they travel in that way the whole way from Rome to Sinigaglia? Yes.

What other couriers had the princess in her service at that time, besides yourself? No other courier; after me there was Sacchini, I and Sacchini.

Was it not very hot weather when they went from Rome to Sinigaglia? Very hot.

Was that the reason of her travelling by night? Her royal highness travelled by night on account of the heat.

In what order did those carriages go forward; her royal highness's first, the bastardella second, and the caratella the third? Her royal highness went first, the bastardella was the second, and the caratella was the last.

Was Teodoro Majoochi on that journey? He was.

Was Racchi on that journey? Ferdinando Racchi.

How did they travel? On the box of the bastardella.

Were there two servants called Soliman and Polidore? Yes.

Were they also on that journey? They were.

[*To the Interpreter*].—Does the word used for curtain in Italian, apply as well to the blind that lifts up, as to the curtain that draws aside? Yes.

What is the Italian word? Cortina and tendina; there is a little distinction as to their origin, but not as to their meaning.

[*To the Witness*].—How did Soliman and Polidore go upon that journey? Soliman on the box, and Polidore came a day after, for he remained at Rome.

On that journey from Rome to Sinigaglia, did not you go on, and order horses from stage to stage? No, Sacchini set out from Rome two hours before.

Will you swear you did not go on and order the horses at each stage? No, I remained with the carriagse, and Sacchini set out from Rome in a carriage.

Upon your oath, did you not go on and order the horses at each stage? I will swear, even to a hundred thousand times, that I was always with the carriages.

Who ordered the horses? Sacchini set out before in the caratella.

Then Sacchini travelled in the princess's caratella? No, it was a carriage that he took from stage to stage.

How came you to swear, in your examination in chief, that he went in the caratella? Every carriage is called a caratella in Italy, and I meant a caratella de posta; that is, a carriage he took from stage to stage.

What was the reason of Sacchini travelling, on that occasion, in a caratella? Because he was not fit to mount on horseback; for when he had run a post or two, he was all chafed.

Then he did travel part of the way on horseback? As I have said before, coming from Milan, as far as Ancona only.

How long had you been at Rome before you set out from Rome to Sinigaglia? Two months.

Do you mean to say, that this accident to Sacchini happened two months before you set out from Rome to Sinigaglia? He set out from Milan to go to Rome, and he was chafed five or six stages afterwards; and at Parma requested me to get him a carriage, and to tell nothing to the baron Pergami. He travelled, as I have told you, in a caratella de posta from Rome to Sinigaglia, and changing the carriage at every stage.

Before you set out from Rome to Sinigaglia, had you not been at Rome upwards of two months? Two months at Rome the princess was, June and July; the first of August we set out.

What was the reason of Sacchini's travelling from Rome to Sinigaglia in a carriage? Because he was not good to mount on horseback, and he soon got tired, and was chafed.

Did he go any part of that journey on horseback? From Rome to Sinigaglia, and neither from Loretto to Rome.

How long had Sacchini been a courier in her royal highness's service during the time you were there? Twelve or thirteen months at the most.

Was not Sacchini the courier on her royal highness's tour through Germany? He was in her royal highness's service, but I was not, at that time.

Where did you reside during the time you were at Rome? At the hotel of Europe, in the Piazza di Spagna, opposite the palace of the Spanish ambassador.

Did you sleep there? I did.

How long were you at that hotel? Six days.

Where were you afterwards in that house? Do you wish to ask as to me or her royal highness.

You? I always was at the house of her royal highness.

Do you mean to say, you slept at the house of her royal highness every night that you were at Rome? I do.

Did you ever sleep in any other place? No.

Were you ever at Rome at any other time with her royal highness? No.

As that was the only time, at that period did you sleep every night in her royal highness's house, or did you not sleep elsewhere for a considerable time? I have always slept in the house where her royal highness lodged.

Were you not, at that time when you were with her royal highness, confined in prison? I was not.

Nor at any other time when you were there with her royal highness? When I was with her royal highness, never.

Were you ever in prison at Rome? How, in what way in prison?

Did you ever sleep in prison; were you ever confined in prison? Once I was arrested at a watchhouse at Piazza Collonna for five days.

When was that? It was when I went to fetch the money from the banker, the duke of Torlonia; when I was at Storta, the postillions would not give me the horses, and the postillions began to ill-treat me, and I began to retaliate, to beat them; the postillions came seven against me with their stable forks; I drew out my pistol and fired, and at that time arrived the courier of monsieur Calcagnini, and he held my arm at the time that I pulled the trigger to kill one of the postillions, and he in this way got the fire himself; then the governor, monsieur Calcagnini, saw that I was right, kept me five days under arrest, and then let me go.

Was not the postillion killed? I did not kill the postillion.

Was not one of the postillions killed upon that occasion? No postillion was killed upon that occasion.

Was the courier injured? He was wounded; I made him a hole as large as that here (in the belly.)

Did he not die in consequence of that wound? He was forty days ill; he was my friend; it was through an accident.

When you were at Rome you say you visited Ruffinelli, how far his Ruffinelli from Rome? There are twelve miles from Rome to Frascati, and there is half a mile to go to Ruffinelli from Frascati.

Do you mean twelve Roman miles, or what other miles? Roman miles.

Re-examined by Mr. *Brougham.*

Is Storta the first stage from Rome? Coming out from Rome to go towards France, it is the first stage.

Do you mean that it was the first stage in going from Rome back to her royal highness? To come to Pesaro.

Were you going then from Rome to Pesaro to her royal highness? I was.

Had you in your charge at that time a large sum of money for her royal highness? Fifteen thousand dollars.

You say this courier whom you had the misfortune to wound by accident was a friend of yours? He was, he is still my friend; and he is at present at Rome.

It was not at him you were firing at the time? No, it was to kill one of the postillions.

Do you mean one of the seven postillions who were attacking you with pitchforks? Yes; and I might have killed perhaps three or four of them, for my pistol had two bullets in it.

Were they the pistols which you had to defend yourself and your charge upon the journey? To defend myself upon the road from Rome from the highwaymen, for there are always some highwaymen there.

Examined by the *Lords.*

Lord *Erskine.*—During the whole time you were in her royal highness's service in the manner you have described to the House, did you ever observe any part of her royal highness's behaviour immodest or indecent, either regarding Pergami or any other man? Never, but always with much respect when he spoke to her royal highness.

Lord *Ellenborough.*—Were you travelling alone when this accident at Storta happened? I was travelling together with the cousin of Pergami.

Do you know why you were released from prison so soon? Because the secretary of state, the governor of Rome, saw that I was right; and monsieur Calcagnini, in whose service the courier was, saw that it was a misfortune, an accident, and he endeavoured to get my liberty.

Earl of *Lauderdale.*—Do you know the countess Oldi's husband? I do not.

Lord *Prudhoe.*—In what month did the princess go from Rome to Sinigaglia? In the month of August.

At what hour of the day did you arrive at Sinigaglia? Eleven in the morning.

The Witness was directed to withdraw.

Then Lieutenant *John Flinn* of the Royal Navy was called in, and having been sworn, was examined by Mr. Denman, as follows:

Are you a lieutenant of the royal navy of England? I am.

Are you now settled in Sicily? I am.

Did you see her royal highness the princess of Wales at Messina in the month of November in the year 1815? I did.

Did you take any command on board a vessel at that time? I did.

What was that vessel? A gun-boat.

Did her royal highness make any application to you, with respect to any voyage? She did.

What was that? To proceed with her on the voyage to Constantinople and other places.

Was a polacre hired for that purpose? Yes.

Who had the command of that polacre? Her royal highness gave me the command of her.

Did you continue in the command of her during the whole time that her royal highness was on board? Most assuredly.

Who fitted up the cabins in the polacre? I did.

Did you fit them up under the direction of her royal highness, or according to your own direction? According to the orders of her royal highness.

And at her expense? Yes.

Was there any surgeon on board during the voyage? When we got to Tunis.

Do you know whether he is now living? I believe not, I have heard he is not.

When he was taken on board at Tunis, did it become necessary to make any alterations in the sleeping place of any other person on board? It did.

What was that? Mr. Pergami's birth was changed into the dining-room.

From what previous situation? From the after-cabin on the right-hand-side of the ship when looking forward.

Do you know the bed-rooms that were occupied by her royal highness, and also by Pergami, during the whole of the voyage? I do; the bed-room of her royal highness was on the starboard-side.

In any situation in which the beds of those two individuals were at any time placed, was it possible for them, from those beds, to see one another? I say no.

Was it your duty to attend to her royal

highness, and to see what the arrangement of her apartments was? I have sometimes been called for by her royal highness, to know how the weather was.

From what place has her royal highness called to you? From her cabin.

Has she called to you from any other place in the night? Yes.

When? When sleeping under the tent.

Under the tent upon the deck? Yes.

What was Gargiulo's situation on board this vessel? He was the captain of the ship.

Was he the acting captain, or the master of the vessel, and you the acting captain? I was considered the captain of the vessel, by order of her royal highness, and all the necessary orders were given by me to the captain of the ship.

Did Gargiulo's situation call on him to attend about the rooms of her royal highness, or about her person? No, most assuredly not.

Supposing her royal highness was to go down stairs for necessary purposes, was that man likely to have any knowledge of such a fact?

Mr. Solicitor General objected to the question.

You understand the sort of occasion to which allusion is made, was there any thing in the duty of Gargiulo, on board the vessel, that should call upon him to know what her royal highness was doing upon that occasion?

Mr. Solicitor General objected to the question.

The Counsel were informed, that they might ask what was Gargiulo's duty on board that vessel.

What was the duty of Gargiulo on board the ship? To attend to the duty of the ship.

His duty was to attend to the men? Yes.

Did that duty call him to be in the part of the ship where her royal highness was? Not at all times; a man could command the ship without being in the apartments of her royal highness.

Was it his duty to attend upon her royal highness, without your having given him orders so to do? No.

Was he in the habit of coming into her royal highness's room of his own accord? He might of his own accord; he could not have gone there without receiving some order from me.

Was that his habit or his duty, without orders from you? It was his duty.

Do you mean, to take orders from you? Yes.

You have mentioned the tent that was sometimes raised upon the deck, how near was the steersman to that tent? About three or four-feet.

During the night and day? Yes.

Did your duty, in the course of the night, call you sometimes to that place? On our return from Jaffa I slept on deck.

The question refers to the place where the steersman was? Most assuredly.

How near was the place where you slept to the tent? Over the helm; I should think about five-feet; I should say less than five-feet.

From the place that the steersman occupied, was it easy to hear what passed within the tent? Speaking generally, I conceive it would be.

Describe what you mean by speaking generally? If the conversation was such as generally takes place between two persons, it might have been heard where I slept and where the steersman was.

You say it might have been heard where you slept; did you, in fact, hear it? No, I did not.

Have you heard conversation from that place passing under the tent? No.

Was it near enough to have heard things that passed in general within that tent? Yes.

Did the tent cover the whole of the deck, or was there a passage left? There was a passage on one side at night.

Were you in the habit of passing along that passage in the night? Yes.

And others of the crew? Certainly.

Do you recollect the light being sometimes put from under that tent to be taken away at night? It was taken away for the preservation of the ship and all on board her.

How so? We had received information at Athens and at Milo of a great many pirates having been about the Archipelago, and it was then consistent that no light should be seen upon deck—not to give such vessels an opportunity of seeing us by night.

Do you know whether there were any pirate vessels at any time; had you seen any? Yes.

Was the danger of the light being on deck represented in consequence of that to her royal highness? It was.

Was the light removed from the tent, after that representation was made? Yes.

Was there any communication between the interior of the tent and the cabin below? Yes.

What communication was it? A ladder that went down to the dining-room.

How was that communication kept at night, open or shut? It was kept open; the tent covered the passage, but the opening itself was always clear.

Do you remember a tub in which her royal highness occasionally bathed? I do remember there was a tub.

Do you know whether that tub could go into the cabin where her royal highness slept? No.

Do you mean that you do not know, or that it was too large to be placed in the cabin? It was too large to be placed in the cabin.

In the course of the night has her royal highness ever spoken to you from the tent? When having occasion to manœuvre the ship during the night, I have had occasion to disturb her royal highness from her repose, she has then called to me.

When you answered that call, did you open that tent? Sometimes, when I could not distinctly hear what her royal highness had to say, I was obliged to open it.

Do you know where Pergami slept on board your vessel? On the return from Jaffa, I do not know where he slept.

Where did he sleep on the other voyage? On going out he slept in the dining-room.

Do you remember the position of her royal highness's cabin with respect to that of the countess Oldi? Yes.

How was it? The cabin was divided into two divisions, that of her royal highness was much larger than that of the countess Oldi.

Was there any communication between them? There was a door and two sky-lights, two openings on the deck.

Was there any gun upon the deck? Yes, there was.

Did you see her royal highness sitting upon that gun with any person? No.

Did you ever see her sitting in the lap of any person on board that vessel? No.

Did you ever see her with her arms round the neck of any person? No.

Or kissing any person, except perhaps the child Victorine? No.

During the whole time that you had the management of this vessel, and that her royal highness was on board, did you see the slightest impropriety or indecency in her behaviour towards Pergami or towards any other person? No.

Do you remember Pergami going on land at Terracina? Yes.

Did you see him take leave of her royal highness? I did.

Describe what was done upon that occasion by him? Kissing her royal highness's hand on going away from the ship which was occasionally done by all persons on taking leave.

How long have you been in the navy? About sixteen years.

You wear some orders? I do.

What are they? The order of Merit and Fidelity of the king of Naples.

On what occasion did you receive those orders? On the occasion of taking several privateers when serving in the Neapolitan navy at Messina.

Have you received the royal permission to wear those orders? One I have.

Which is that? The third order.

By royal permission I meant the permission of your own king? Yes.

Cross-examined by *Mr. Solicitor-General.*

How long were you on the voyage from Tunis to Jaffa, as nearly as you can recollect? I do not know the exact date; if you will allow me to look at a memoir I have made—

The question does not call for the precise time, but about what time? I should conceive from two to three months.

How long, as nearly as you can recollect, were you upon the voyage from Jaffa to Syracuse? Nearly a month.

Do you mean to say, that you were not more than a month? We might have been more, I cannot state exactly to a day without appealing to memoirs.

Will you take upon yourself to say, that you were not two months?

The witness produced a paper, and was asked.

When were those made? They were copied from my own originals.

When? Since I have been on my voyage.

Where are the originals? In Sicily.

Why did you not bring the originals? I did not think they would be wanted.

Why did you make the copies? Because I thought it consistent, I thought I might want them hereafter: I did not consider it necessary to bring the originals with me.

You made the copies because you thought they might be wanted, but you did not think the originals would be wanted, is that so? Yes.

For what purpose were the copies to be wanted? To remember in case I should be asked any particular circumstance, where I had been, by my friends,

Why would not the originals communicate that? Because it is private affairs,

Do you mean to swear those papers you have in your hand were copies made before you came to this country the last time? Yes.

In Sicily? On my voyage on board the ship.

That the copies which you now hold in your hand, were made on your voyage on board the ship? On board the ship; I went from Messina to Syracuse, I heard that persons were called to England, and I expected to be called myself, but I was not called.

You mean that the copies were made at that time? On my voyage.

Can you tell now, without looking at those copies made by you, nearly how long you were on the voyage from Jaffa to Syracuse? We might have been more than a month, I cannot tell particularly without looking at the paper.

According to the best of your recollection will you take upon yourself to say, you were not two months? From one to two months, I should conceive we were, I cannot swear exactly.

Nearer two months than one month? I should think nearer two, when I reflect on the thing.

Will you take upon you to swear that you were not more than two months? No, I cannot take upon me to swear that.

The Witness was directed to withdraw.

Lord *Erskine* objected to the mode of examination pursued by the learned counsel. If the witness were not allowed to refresh his recollection by his memoranda, it was unfair to tax his memory in the way attempted. All would probably be clear by reference to the paper in the hand of the witness.

The *Lord Chancellor* asked, if the witness had offered to look at the paper.

The *Solicitor General* observed, that the memorandum offered by the witness was merely a copy of some previous entry in the log-book, and made during a subsequent voyage. He submitted, therefore, that it could not be produced.

Lord *Erskine* added, that if the witness were not allowed to refresh his memory, the counsel was bound to take it with its defects, but not to tax it as he had done.

The *Lord Chancellor* seemed to be of opinion, that if the memorandum were not produced, the counsel had a right to tax the memory of the witness.

The Earl of *Liverpool* explained, that as the memorandum had not been made at the time of the transaction, in his view it could not be employed by the witness for the purpose of refreshing his memory.

The Marquis of *Lansdown* remarked, that the question was not whether the memorandum should be received in evidence, but whether a copy of the original, which original he understood to have been made at the time, might be used by the witness to refresh his memory, as to dates.

The Earl of *Harrowby* did not think that the witness had yet stated that even the original was made at the time of the transaction to which it referred.

The *Lord Chancellor* read the following sentence from Phillipps's Law of Evidence:—"To assist his memory, a witness may use a written entry in a book, or a memorandum, or a copy of a memorandum, such entry and memorandum having been made at the time when the fact occurred, or immediately afterwards." Therefore, if the witness swore that the original memorandum was made at the time, and that what he employed was an accurate copy of the original, it seemed to him that it might be used to refresh his memory.

Earl *Grey* said, the easiest and most simple way was, to call on the witness, and to ask him as to the nature of the paper he held in his hand. If it should appear that he made an entry at the time, and that the paper was a true and faithful copy of that memorandum, no doubt he could refresh his memory from it.

The Earl of *Harrowby* suggested, that part of the witness's evidence should be read from the Minutes, which was accordingly done.

The evidence of the Witness respecting the copies from his journal was read over.

The Witness was again called in.

Lord Chancellor.—Where did you make those orignal papers that you spoke of? The papers were made on board the vessel which I commanded.

Where, on what voyage? Going from Messina to Catania.

Where did you make what you call the copies of those originals? It was on board the ship.

On the same voyage? Yes.

On your way from Messina to Catania? I went round the island in a vessel of my own.

Did you make the original minutes when you were on board the polacre with the princess of Wales? The original, I did.

Did you make the copies when you were on board the polacre with the princess of Wales? The originals were made on board the polacre.

Where did you make the copies? When I went round the island of Sicily in my own vessel.

Had you the originals with you at the time? I had, on board the vessel.

Are those copies made from those originals? Yes; there are very few lines of them; I did not copy the whole of them.

Are they faithful extracts of so much as they purport to be extracts of? No; perhaps I do not understand the question.

You recollect your original papers? Yes.

Are those you call copies, copies of the whole of those originals? They are not copies of the whole transactions on board the polacre.

Are they copies of any part? Some parts, such as the dates when we sailed from different places, that is all.

As far as you have made copies, can you say, upon your oath, that they are accurate copies of parts of the originals? Yes.

Mr. Solicitor General.—Have you looked at that memorandum since you have been out of this House? No, I have not.

Look at the memorandum, do not read it aloud, and state how long you were on the voyage from Jaffa to Syracuse?

The witness referred to his memorandum, and said,

We sailed from Jaffa on the eighteenth of July, and arrived at Syracuse on the 20th of August.

The paper was shown by the witness to Mr. Solicitor-general, at his desire, and he was then asked,

During the voyage from Tunis to Jaffa, where did Pergami sleep? From Tunis to Jaffa, in the dining-room.

Every night? To the best of my recollection he did.

How do you know that? Because I had frequent occasion to go to her royal highness

in the morning to pay my respects, and I saw him in bed.

Were those the only occasions on which you saw him in bed in the dining-room? Those are the only occasions.

Did her royal highness sleep below during the whole of the voyage from Tunis to Jaffa? I believe she did.

When you went to pay your respects to her royal highness, where was her royal highness at the time? In her own room.

In her sleeping cabin? Yes.

Abed? On the sofa.

Dressed or not? Dressed.

And Pergami, on those occasions, in bed in the dining-room? He was in bed.

How many times may you have seen him on the average in a week? I never particularized to haul back the screen, but sometimes when I have gone in, he has said, "Good morning" as I passed.

What kind of a bed was it, or bedstead? I believe it was an iron bedstead, but I cannot positively recollect what it was.

Fixed? No, it was not a fixture, but it was lashed to the side of the vessel.

Do you mean to swear, that from that bed, the bed of her royal highness, when the door was open, might not be seen? I should think not.

Then now it is only you should think not; did you ever stand in such a position as to see to decide that? No, I did not.

Was it your duty to attend upon her royal highness? No, it was not; but when called for I frequently went there.

No other business took you into the dining-cabin in the night? No.

Though you had the command of the ship, you did not go into the cabin at night? I did not, without being sent for.

At any time, either upon the outward or homeward voyage? On the homeward voyage I have.

Often? Not very often; such as going to dinner.

At night? No.

Never? Never, without being called for.

Who was to call you at night? The crew on deck, when I was not on deck myself.

Who was to call you into the dining apartment at night? Some of the servants of the house—of the ship.

Being so called, you have gone at different times? I have gone when I have been called for, but I never went of my own accord.

Has that happened frequently? Not very frequently.

Has that happened several times? I cannot specify the number of times, but I apprehend more than once.

Or twice or ten times? I might have been as many times as that, but I cannot possibly recollect the number of times I have been sent for.

Under this tent, on the deck, there was a bed, was there also a sofa? There was a sofa and a bed.

Whose bed? I believe that it was Mr. Austen's bed.

Who slept in that bed? I do not know.

Do you mean to swear, that you do not know that her royal highness slept in that bed? Her royal highness slept on a sofa, not on a bed.

Near that bed? Not very near.

How far off? As far as I am from that seat there.

Three or four yards? I should say three yards.

Do you mean to swear that there was an interval of any thing like three yards between the bed and the sofa? Between the extremities of both, there was a great deal more.

Was there more than a yard between the nearest point of both? Yes, most assuredly there was.

How much? There must have been more than two yards.

Where did her royal highness sleep, on the sofa? Yes.

How do you know that? Because I had occasion to see her one night, when I went in there.

Is that the only reason you have to know that? That is the only reason; I can testify having seen her royal highness on that bed, and I conceive she always slept there.

Who slept on the bed? I do not know.

For what purpose was it placed there? It was placed there for persons to sit there, during the day.

Do you mean to swear, that it was placed there for people to sit on during the day? That was the occasion I saw it used for during the day-time.

You mean to swear, you believe it was placed there for that purpose? I can state no other purpose; I do not know that any person slept in it, I never saw any person in bed there.

Did you ever see Pergami in bed there? I have never seen him in bed; I have seen him sit on it in the day-time.

Have you never seen him lie upon it in the day-time? No.

Do you mean to swear you have never seen him lie upon it in the day-time? I do.

Had you never the curiosity to inquire where Pergami slept the whole of the voyage from Jaffa to Syracuse? No, I had other duties to attend to, navigating the ship to carry her royal highness about to the different places to which she went, and I did not attend to that.

Have you any doubt that during that voyage, and the whole of it, Pergami slept upon that bed under the tent? I cannot say where he slept, I never went to look after Mr. Pergami; when he was wanted, or where he slept, it is impossible for me to say, I can only repeat that I never saw him in bed.

Have you any doubt that he slept on that bed every night on the voyage from Jaffa to Syracuse? I cannot say.

Have you any doubt upon the subject? I must certainly doubt whether he did sleep there every night, or whether he did sleep there at all, I cannot say, for I never saw him there, nor do I know where he slept.

Do you mean to say you entertain doubts whether he did sleep there, and believe that he did not sleep there? When I never saw him there, I have every reason to doubt that he did not sleep there.

Do you mean by that to say that you believe he did not sleep there? I believe he did not sleep there.

Where did he sleep? I do not know; I never went to look where he slept.

Did you ever see him sleep in the cabin on the voyage from Jaffa to Syracuse? I never went into the cabin in the day-time, to see whether he was there or not.

Did you ever see him, during any part of that voyage, sleeping in the cabin? I do not know; I never went into the cabin to see whether he slept there or not.

Did you ever, either by night or in the morning, see him, during any part of that voyage, sleeping in the cabin in his former place? I do not recollect having seen him there.

Do you mean now to repeat, that you believe he did not sleep under the tent? I must again repeat that I do not know where he slept.

Not knowing where he did sleep, you mean to have it believed that you do not believe he slept under the tent? I believe he did not sleep under the tent.

What is your reason for believing that he did not sleep under the tent? Because when I went to see her royal highness one night, I did not see any one there.

Was it light or dark? It was dark.

Of what country are you a native? I was born an Englishman, part of an Irishman.

It being dark, and not seeing him when it was dark, is that the only reason for your belief that he did not sleep under the tent? The light of the binnacle was quite sufficient to give me an opportunity of seeing whether he was there or not; it was dark at night, but there was the light from the binnacle that reflected into the place when I opened it.

Attend to the oath you have taken; upon the night when her royal highness called you, and when you say there was a light from the binnacle, will you take upon yourself to swear that Pergami was not on that bed? I do swear to it.

Was that the only occasion that you saw that bed when Pergami was not there? I have gone there frequently, and seen the bed in the same position, and I never saw him there.

Have you gone there frequently? I have gone there when called for.

And you never saw him there? I never did.

Do you mean to swear, that if he had been there, you must have seen him? Yes, if he had been on the bed I must have seen him.

Do you remember the night of a storm off Candia? Yes, I do.

Did her royal highness go below? She did.

Where did she sleep? She slept on the deck. I did not follow her royal highness to see where she slept; but I believe she slept in the cabin belonging to Mr. Hownam.

Do you not know that she slept on the deck below, by the side of that cabin of Mr. Hownam? She might have slept there at first, and afterwards retired to the cabin of Mr. Hownam; but the occupation of the ship required me to stop on deck.

Did you not see her royal highness below on the deck? I believe at day-light in the morning I saw her royal highness in Mr. Hownam's cabin.

Did you not go below during the night, and see her below during the night? I do not recollect to have done it; it does not strike me that I did: it blew very hard indeed, and required me on deck.

Do you know where Pergami slept on that night? I do not.

Where did you see Pergami in the morning? The first I saw was on his coming on deck; I saw him coming up the ladder.

You mean to swear you never saw him during the night lying on the deck below? No, I did not.

Had you the whole command of the vessel? Speaking of having the command, I had those orders which her royal highness chose to give me at different times, and under those I acted; the ship was hired by her royal highness.

During the whole of that month you mean to swear you never saw Pergami in bed anywhere? I never saw him in bed anywhere; I have seen him sitting on that bed on the deck, but never saw him lying down.

At the helm you could not hear a conversation that passed within, unless it was in a certain tone of voice? Speaking as you are now speaking, I might have heard it; I could have heard it.

When her royal highness called, you did not hear, and were obliged to lift up the tent? Yes, when blowing hard on board the ship, the working of every material on board prevents persons hearing, and I could not distinctly hear what her royal highness said, but I naturally concluded, from having been called on former occasions, that it was to enquire respecting the weather.

The Witness and Counsel were directed to withdraw; and the House adjourned.

HOUSE OF LORDS.

Tuesday, October 10.

As soon as the House had been called over,

Earl *Grosvenor* rose to call the attention

of the House to a subject of considerable importance. Their lordships were perfectly aware, that her majesty's attorney-general had announced it to be his intention to prosecute one of the witnesses that had been examined at their lordships' bar, for perjury.—From what they had heard, it might strike them as it did him, it was probable that more than one witness would be liable to a prosecution for perjury. In an early stage of the present proceedings, that House had come to a resolution, that they would do nothing to prevent those prosecutions to which witnesses might expose themselves. That the House would not put themselves in the way of any prosecution was therefore clear; but it was not quite so clear that individuals would not, nor was it clear that indictments for perjury committed in the course of proceedings like that which the House was engaged in, could be maintained. He wished therefore, to know, from the learned lord on the woolsack, whether he believed there was any power of prosecuting witnesses in this cause for perjury? It might be practicable to throw difficulties in the way, which would enable the parties to escape; he therefore thought care should be taken that there was no interference from any quarter with that power in the country to which the power of punishing such offences was confided. The honour and dignity of that House appeared to him to be concerned in seeing that no difficulties were thrown in the way of prosecutions of the nature to which he had alluded; and he would, therefore, submit, that it might be expedient to pass a short act to remove all doubts on the subject.

The *Lord Chancellor* said, if he took upon himself to reply to the noble earl, their lordships would allow him to say, that he did so because the proposition just submitted to their lordships in the present stage of the proceedings now in progress, appeared to him one of the most extraordinary steps he had ever witnessed. He would take the liberty to say, that when the learned counsel at the bar announced his determination to prosecute one of the witnesses in support of the bill, for perjury, he had gone further than he ought to have done in that stage of the proceedings. And to him it appeared that the noble earl had at present no right to talk of the probability of prosecutions for perjury being instituted against more than one of the witnesses. On that probability he felt, for his own part, that he had no right to form an opinion, till they arrived at the conclusion of the proceedings. He felt that till then he owed it to every witness to suspend his judgment on the testimony which he might offer at their lordships' bar. He would appeal to them, both in a judicial and a moral point of view, whether they were not bound to act on this principle; and whether, by taking the course which had been suggested, they would not, instead of giving the witnesses that protection to which they were entitled, proceed, in point of fact, to punish imputed perjuries, though every word which had been sworn might be proved true by witnesses subsequently to be called.

Earl *Grosvenor* wished it to be borne in mind, notwithstanding the impropriety which had been suggested to him by the noble and learned lord, that he had only stated an hypothetical case. He had stated, that there was an individual among the witnesses who had been threatened with prosecution, and that others might be prosecuted; and in this, as far as he might judge, from the evidence of his ears, he was fully borne out. He could not help thinking it a matter of considerable importance. It was said, that the step he had taken was extraordinary; that it was anticipating the conclusion; but their lordships would recollect, that in an earlier stage of the proceedings in this particular case, the learned lord on the woolsack had thought it right that the House should declare it would throw no impediment in the way of prosecution for perjury. This had taken place some weeks ago; yet they had been given to understand that this was the first time such a question had been agitated. Under the peculiar circumstances of the case, it might be desirable that a bill like that which he had suggested, should pass, in addition to the determination to which they had already come, not to interpose their powers to screen any individual from punishment.

The *Lord Chancellor* remarked, their lordships would surely see the mighty difference between laying down a rule for the purpose of obtaining true evidence, before any witness had been examined, and that of adopting a particular measure with respect to certain individuals pending the proceedings. The witnesses might have sworn falsely, for aught he knew; but on that he had no right to give

an opinion. There was a great difference between such a measure as had been proposed, and a rule adopted in the first instance, which was to extend to all the witnesses that were to be examined.

The Earl of *Liverpool* could not approve of the course which had been suggested by the noble earl, and thought, with the lord chancellor, that there was a vast difference between such a measure adopted at this stage of the proceedings, and a general rule laid down at their commencement, previous to the examination of a single witness.

Lord *Melville* said, he was persuaded their lordships would concur with him in thinking, that when a witness had been cross-examined, he ought not, except on strong grounds, to be subjected to a further examination. He was sorry to interrupt the course of the proceedings, but circumstances had come to his knowledge with respect to William Carrington, one of the witnesses examined on Saturday, which, in his judgment, made it highly important that that witness should be again brought to their lordships' bar, either immediately or as soon as the witness then under examination had retired. He thought it desirable that the counsel on both sides should be put in possession of the questions intended to be asked with little delay, that they might be prepared to address themselves to that part of the case. He should move that William Carrington do attend at their lordships' bar.

Earl *Grey* thought it might be the more convenient course to bring up the witness for further examination, when the remainder of the case had been gone through with.

The Earl of *Liverpool* observed, that before the Summing-up of the counsel for the Queen, the counsel for the bill would be asked if they had any evidence to rebut the evidence for the defence. Then they would have a right to offer such evidence as they might be able to produce. The question now was, whether the particular individual should be called in when they arrived at the conclusion of the case, or forthwith. He was inclined to adopt the latter course.

The Earl of *Lauderdale* did not know the nature of the questions intended to be put to the witness, but the House would remember, that her majesty's counsel had been allowed more than once to call a witness back; and if this had been granted to counsel, would their lordships refuse to extend the same confidence to one of their own body? He was of opinion that the licence allowed to the counsel on either side, could not be withheld from a member of the court. He thought the noble viscount ought to be allowed to decide whether it was most advisable that the witness should be called back now or at some future time.

The Earl of *Donoughmore* said, he could form no opinion on the subject, because he had no adequate idea of the questions intended to be asked; but he thought it rested with the noble lord to say when the witness should be recalled. The questions to be put were not to be put from one side or the other, in this cause; but were to be put by a noble lord for the information of the Court. He, for his own part, thought the sooner the Court was put in possession of this information the better.

Lord *Melville* did not say, that the necessity of the case required the instant examination of the witness; he would only say, that it was, in his opinion, highly expedient that the particular witness alluded to should be examined without much delay. He then moved, that William Carrington should be ordered to attend to be examined at their lordships' bar this day.

The motion was agreed to.

The Order of the day being read for the further consideration and second reading of the bill, intituled "An Act to deprive "Her Majesty, &c.," and for hearing counsel for and against the same; Counsel were accordingly called in.

Then Lieutenant *John Flinn*, of the royal navy, was called in, and farther cross-examined by Mr. Solicitor General, as follows:

At what time did you arrive at Athens?—[The witness referred to his paper.] On the 8th of May I believe.

Did you touch either at Athens or at Milo, on the homeward voyage? No.

You mentioned yesterday, memorandums, or a copy of memorandums, which you made on the coast of Sicily? Yes.

When was that made, how long ago? About three months ago, between three and four months ago.

How long previously to that time was it, that you had been in England? I had been in England in 1817.

You had not been in England from 1817 down to that period? No.

Was the memorandum made on shore, or on board the vessel? On board the vessel.

Had you been on shore a short time before that? In Sicily; I sailed from Messina to La Carta first, and from thence to Catania, and from Catania to Messina.

Were you on board an Italian vessel? I do not remember that I was on board an Italian vessel

At the time you are speaking of, when that memorandum was made? No, I was not.

Of what country? An English vessel.

What was the name of that vessel? The Lion.

Will you allow me to look at the memorandum you hold in your hand? Yes.

The Paper was handed to Mr. Solicitor-General.

You have stated that you had the command of this polacre, who was it that navigated the vessel? I did.

Who was it that gave orders to the sailors? Generally it was the captain, but those orders came from me.

Did you do more than merely direct the captain as to the place he was to go to? I did not particularly direct him to go to any place; I only gave him orders to execute those duties belonging to the ship.

Did he not execute those duties as the captain of a vessel ordinarily does, by giving directions to his crew? I conceive he did.

Then in navigating the vessel, had he not the whole care and management of the ship? He had not the whole management of the ship, because the management was given to my charge by her royal highness.

Do you mean to say you gave orders to the seamen about the navigation of the vessel? The management of the ship and the manœuvring of the ship were different.

Do you mean to say you gave any orders to the crew for the navigation of the vessel?

Mr. *Denman* interposed; and, after the witness had withdrawn, observed, that the solicitor-general had no right to assume that the witness had said he gave orders. When a witness was asked, whether he meant to say so and so, it was intended to be insinuated that he had said something like it; whereas the witness had said, that the captain generally gave the orders.

The last six Questions and Answers were read over.

The *Lord Chancellor* said, that it struck him the witness put a different construction on the terms navigating, management, and manœuvring the ship; and he conceived that the questions the witness had been asked had been put for the purpose of ascertaining what he meant by the words, "navigating the ship."

The Witness was again called in.

Mr. Solicitor General.—What do you mean by saying that you navigated the ship? By navigating the ship, such as directing the courses to steer by, and giving orders to the crew occasionally.

Then you did occasionally give orders to the crew as to navigating the vessel? The navigating of the vessel includes manœuvring the ship and sails, those things as well as the navigation also.

Did you give directions as to the manœuvring the ship? Sometimes I did, sometimes I did not.

Was not that generally done by Gargiulo the captain? Sometimes he was not on deck, and I had occasion to do it myself.

Then was it only when he was not upon deck, and you had ocasion to do it on that account, that you gave those directions? Sometimes I have done it also when he has been upon deck.

Was it not generally done by Gargiulo? As to the working of the ship, I think he generally did it more than I did myself.

Do you usually write in Italian or in English? In Italian sometimes.

Do you usually write in Italian or in English? In both.

You must perceive that is not an answer to the questions; do you usually write in the one or the other language? I write in English generally.

Was the account which you kept of the proceedings of the vessel in Italian or in English? In Italian.

Was that account written by yourself? The account was written by the clerk.

The question refers to that account referred to by you yesterday, and from which you made your extracts? It was written by the clerk.

Was that clerk an Italian or an Englishman? I do not know what he was.

Was he your servant? No.

How long were you on board the vessel with him? In the voyage we were several months on board.

With that clerk? Yes, there was a clerk; the copy you allude to now, the journal, was kept by myself in Italian.

The question refers to the journal from which you took that memorandum, whether that was kept in English or in Italian? It was kept in Italian, the log-book.

Was it from the log-book you took those memorandums, those copies? Yes.

By whom was the log-book kept? By myself, it was a private memorandum of myself.

Do you mean that the log-book was a private memorandum of yourself? Yes, it was a private memorandum of myself; it was not exactly the log of the ship, it was a private memorandum of myself; I considered the log for my own private purpose.

Being for your own private purpose, was it kept by yourself or by a clerk? It was kept and directed by myself, some writing of my own, and some writing of a clerk in it.

Was that the clerk to whom you alluded just now? Yes.

Was he on board the polacre? Yes, he was.

The whole voyage? Yes, the whole voyage.

You were asked whether he was an Italian or an Englishman? An Italian.

Did you not state just now that you did not know what countryman he was? I believed him to be an Italian or a Sicilian; I did not know what he was; he was on board the ship.

Did you not, in answer to the question put to you, whether he was an Englishman or an Italian, tell me you did not know what countryman he was?

The following question and answer were read over to the witness:

"Was that clerk an Italian, or an Englishman? I do not know what he was."

Did you not tell me just now, when I asked you whether he was an Italian or an Englishman, that you did not know what he was? I do not know what he was, but I believe he was an Italian or a Sicilian.

You say he wrote only a part, was the part which you wrote written in Italian or in English? That part which I wrote was in English.

Did you not tell me just now that the log, or whatever it was, was written in Italian? In Italian.

Did you not tell me that the log was written in Italian? Yes.

Now you mean to say it was written partly in Italian and partly in English? Part of both, to my recollection.

Here the witness who seemed for some time previous, to be labouring under indisposition fainted, and was removed from the bar. On coming to himself, he requested leave to withdraw, and was led out of the house.

The *Lord Chancellor* immediately ordered the windows to be thrown open, and said that he had heard with much surprise, yesterday, that some of the officers of the house had said it was by his wish the windows were kept shut. Now, he had never expressed any such wish, but was most anxious to have the ventilation of the house kept up as much as possible.

After a short time the Witness returned.

The previous evidence of the witness was read over to him, and he interposed, by saying, "the clerk I referred to was a sailor whose name was Pasquali; he was a servant of mine."

Mr. Solicitor General.—Having told us in a former part of your examination, that Pasquali was not a servant of yours, and having now told us he was a servant of yours, which of these two stories do you mean to adhere to? I mean to adhere that he acted as both.

Do you mean by saying that he acted as both, that he was your servant, and that he was not your servant? His being a servant was only for the purpose of taking my cot up and down, and making my bed, and those private affairs, such as writing for me, were done for me, such as the duty of a servant; he was not kept as a clerk, but he was kept more as a sailor on board the ship.

Then he acted as your servant? He acted as a sailor and as a servant on board the ship; he was one of the crew.

You having kept a part of this log yourself, and Pasquali having kept the remainder, which of the two kept the larger proportion? It is impossible I can determine at this moment; I have not the thing before my eyes, nor can I say which kept the most, but I should think I kept the most of it myself; I may be mistaken as to such a circumstance; I have not the thing before me, and I cannot say.

Then the most of it, if kept by you, was kept in English? There was some in English and some in Italian, written by myself.

Then if you stated just now, that the part which was kept by you was kept in English, you told us that which was untrue?

Mr. Denman objected to the question, and thereupon Mr. Solicitor General waved it.

Did you not tell us just now, that the part kept by you was kept in English? If I told you so, it was at a moment when I felt myself so situate that I did not know what I said.

Then the part that was kept by you, do you mean now to say was kept sometimes in English, and sometimes in Italian? Yes.

Was the greater proportion, according to the best of your recollection in English, or in Italian? I should involve myself very much to say which it was, I cannot recollect.

Was there a considerable proportion of it in English? By saying that there was a considerable proportion, I shall conceive the greater part was written by me in English, but I do not recollect, I should think as much the one as the other.

Do you mean the greater proportion of it in English, or about the same? About the same.

Look at that paper [the paper produced by the witness], and tell me whether it does not commence with your departure from Messina? It does not commence with that, it is in December.

Where does it commence from? From the 6th of December, which was the day her royal highness arrived at Messina.

When did she set out from Messina? On the 6th of January.

Mr. *Brougham* desired that the memorandum might be in the hands of the witness, to enable him to answer the questions, and not in the hands of the solicitor-general.

The Counsel were informed, that the memorandum, if it was properly the subject of reference at all, ought to be seen by the Wit-

ness in answering the questions by the counsel examining him, in order to enable him to answer the questions put from it.

The Witness was directed to withdraw.

Mr. *Brougham* said, that the common use of a memorandum in a court of justice was, for a witness, by referring to it, to refresh his recollection from the contents. But his learned friend, instead of suffering the witness to do that which it was the proper and ordinary course to let him do, kept the document himself, and proceeded, *seriatim*, to put questions to the witness from the contents of that paper. Such a course was most assuredly irregular, and in direct contravention of the rule laid down by their lordships on a former occasion, where a paper was produced.

The *Solicitor General* denied that this was in any degree a similar case to that in which their lordships had laid down the rule referred to by his learned friend. He also denied that he was questioning the witness, in the manner objected to, out of this document. He certainly looked into it, as he believed he was entitled to do, while the witness perused it in his hand. He had certainly a strict right to make use of it in this way.

Mr. *Brougham* said, certainly not, after their lordships had laid down a contrary rule on a former occasion, and decided that a different manner should be observed.

The *Solicitor General* said, that his learned friend was evidently blending together two different and distinct things. He was confounding the form of putting a paper as evidence, and merely using it to refresh a witness's memory.

The *Lord Chancellor* said, that it was a very different thing to say that a paper should be put in as evidence, and that it should only be referred to for the purpose of refreshing a witness's memory. He thought it perfectly clear and incontrovertible that while a witness referred to a paper to refresh his memory, it was quite competent for the counsel who was conducting the examination also to look over the paper used by the witness.

Mr. *Denman* said, that his objection was not to his learned friend's glancing over the paper as the witness referred to it, but taking it altogether out of his hand, and using it for quite a different purpose than refreshing the witness's memory, the only thing for which it was produced.

The *Solicitor General* said, the only reason he had for taking the paper out of the witness's hand was, because Mr. Gurney (the short-hand writer) was situated between him and the witness, and therefore he could not read it at such a distance. If the witness came next to him, then there would be no occasion to take the paper out of his hands.

The Earl of *Lauderdale* said, the House ought to consider, at first, whether they could receive this paper as evidence, if it were offered to them as such. He had some doubts upon that point. According to the statement of the witness, this paper was partly written by himself, and partly by another, who was said to be a clerk. If the latter part were not read over at the time by the witness, and believed by him, then, to be the correct account of what it purported to be, how could they admit the contents of it in evidence?

Lord *Colville* expressed a wish, that the witness, on being recalled, should say what log-book it was he had been referring to: or whether two log-books were kept—one for the ship, and the other for the witness's own use. The regular book always remained in the ship, for the use of the owners.

The *Lord Chancellor* begged to restate the general rule of evidence which he had before read, and which was to be found in Phillips's Law of Evidence. It was a general rule that a memorandum, to be efficacious according to the rules of evidence, must be shown to have been taken, at the time of the occurrence of the fact to which it alludes, by the person who is speaking of it; or else by some other person, under his examination and inspection, so as to check any incorrectness.

The Witness was again called in.

Mr. Solicitor General.—Produce the paper again.

Mr. Denman advised the witness not to give it to Mr. Solicitor General.

The Counsel were informed, that the paper must be so produced as to be as much under the eyes of the counsel as of the witness.

Mr. Denman stated that to that he had no objection.

The Paper was laid before Mr. Solicitor General and the Witness.

What is the first entry? December.
What is the place? Messina.
In what language? Italian.
What is the next? The 16th.
Where? At St. Giovanni in Calabria.
In English or Italian? In Italian.
The third? The 17th.
Where at? Scilla.
In English or Italian? Italian.
The fourth? The 6th of January.
Where? At Messina.
In English or Italian? In Italian.
The next entry? Going on board the Clorinde.
In English or Italian? Italian.
The next? At Syracuse.
In English or Italian? Italian.
The next? The 29th of January.
Where? At Syracuse, for Catania.
English or Italian? Italian.
The next? The 5th of March.
Where? Catania.
In English or Italian? Italian.
The next? The next after was, we shipped on board the polacre at Augusta, the 30th of March.
In English or Italian? In Italian.

The next? The 10th of April, at Utica.

In English or Italian? Italian.

The next? The 12th of April, Alla Manuba.

In English or Italian? Italian.

The next? The 17th at Zavoan, the 19th at Udina, the 22nd went on board the polacre.

Look at that paper, and state whether there is a single entry of all the places traced in that paper in the English language? No, there is not.

Does it come down to the return to Messina? It does.

And every entry from the beginning to the end is in Italian? Yes, in this it is.

Look at that paper, and tell me whether you will swear it is your hand-writing? No, I cannot swear it is my hand-writing.

Were you on board the Clorinde? Yes.

Whose hand-writing is that paper? It is the clerk's.

The clerk's? Yes.

Pasquali? Yes, I believe so.

Was not Pasquali a confectioner in the service of her royal highness? No, not the Pasquali I mean.

Was he not one of the crew of the polacre? He was not one of the sailors of the ship, the Pasquali you allude to; there was a Pasquali in the service of her royal highness, but not the Pasquali who wrote this.

Was not the Pasquali, that acted as your servant, one of the crew of the polacre? Yes.

Do you mean to swear that that Pasquali was on board the British ship the Lion, three months ago? Yes, he was; he went down with me from Messina to La Carta, as being the pilot of the coast, and from La Carta to Catania, where he was discharged.

What became of him in the interval, between the termination of the long voyage, and the time you are mentioning? I do not know.

What became of the polacre in the interval? The polacre, she went to Naples; I do not know exactly, I left her at Genoa.

With her crew on board? Not with the whole of the crew:

Pasquali was left behind? Pasquali went with me to Messina, he and another sailor who had been with me six years in the flotilla.

Pasquali it was who made this memorandum for you on board the vessel three months ago? By my directions.

Did you not tell us yesterday, that it was in your own hand-writing? I do not remember that I did, it was a thing that escaped my memory, I did not reflect at the moment.

When you were asked that question, was not the paper before you? It was not in my hand at the moment when I answered, and I did not reflect at the moment whether it was in my own hand-writing or not.

Now, however, you say it was not in your hand-writing, but in Pasquali's? Yes, by my directions.

Will you swear that it is not in the hand-writing of Schiavini? This is Schiavini's hand-writing.

Re-examined by Mr. *Brougham.*

How long have you lived in Sicily? Eight or nine years.

Are you in the habit of speaking there the Italian or the English language? The Italian.

At the time when you went the voyage with her royal highness the princess of Wales, were you then as familiar with the Italian as you are now? Yes, perfectly, and more so.

The clerk you mentioned, you say you do not know what he was, do you know of what country he was a native? I believe he was of some part of Italy, but I do not know.

Did he speak Italian? Yes.

Did Pasquali make a copy from your log-book? Yes.

Are you a lieutenant on half-pay in the English navy? I am.

Have you been examined at any time before you came to England; have any questions been put to you respecting the conduct of her royal highness on board of that polacre? No.

If you had received notice of its being necessary, could you have brought that log-book here? I should suppose I could.

Who was it made the copy from the log-book? Pasquali.

You stated just now that the paper in your hand was written by Schiavini? Yes.

When did he write it? A few days back.

What did he write it from? By dictating from the paper I had in my hand, written by Pasquali.

Carry back your recollection to the outward voyage from Tunis to Jaffa, you have stated, that on that voyage her royal highness slept in the cabin; and that when you went to that cabin in the morning, when you were sent for to her royal highness, you passed Pergami in his bed; you state, that on the voyage from Jaffa to Syracuse her royal highness slept in the tent; when you were called to wait upon her royal highness in that tent, had you any occasion to pass through the room where Pergami had slept before? After her royal highness had got up, I went up the ladder.

What sort of a tent was it, a double or a single tent? A single tent.

Do you recollect the breadth of the beam of the vessel? I should suppose from nineteen to twenty feet.

The *Solicitor General* then requested, that, before the witness was ordered to withdraw, he should be ordered to deposit the paper he had, with the clerk of the House.

Mr. *Denman* objected to this application, and said, that he was entitled to see the paper before any thing was done with it: he had no copy of it, nor did he ever see it until now.

The *Attorney General* said, the paper ought to be deposited, whether his learned friend had seen it or not.

Mr. *Denman* hoped no insinuation was intended that he had seen this paper before this day at the bar. If such were intended, he must repel it in the manner it deserved [Cries of "Order" from the House.]

Mr. *Brougham* hoped, if their lordships suffered these insinuations to be flung out on one side, they would in justice allow them to be repelled on the other.

The Earl of *Lauderdale* said, that counsel must abide by the decision of the House, and not provoke unnecessary remarks.

Earl *Grey* said, it was the duty of their lordships to abstain from replying to any extraneous remarks made by counsel on either side; but, when counsel appeared to them to exceed their line of duty, to interpose and stop the extraneous remarks, but not to do so by cries of "Order."

The Paper was delivered in.

Examined by the *Lords*.

Lord *Kingston*.—You say, that you fitted up the princess's cabin, what was the length and width of the door? The doors might have been from three feet to three feet and a half wide: there were two divided.

What height? I should suppose about six feet.

What was the depth of the princess's bathing-tub? I cannot state precisely the depth of it; but I should conceive from two and a half to three feet.

If that tub was laid on its side, could it be slewed in the cabin? No, I should hardly conceive that, unless both doors were open, it could; it might have gone one end of it, but the whole could not have gone in.

If both doors were open, could it have been slewed in? One part could have been got in, the half of it could have been got in, but it could not have gone the whole.

Describe the reason why, if one half of it could go in, the rest of it could not go in? Because there is not length.

Not length in the cabin? There was not length from the sofa where her royal highness slept to the door of the cabin?

What length was the cabin? The cabin on the floor, I should suppose, could not have been more than ten-feet or ten-feet and a half.

What length was the princess's bathing-tub? The princess's bathing-tub must have been at least six feet, or nearly that.

Do you mean to say a tub six feet could not have gone into a room of ten feet and a half? But there was the sofa there.

Was that sofa immoveable? It was moveable, but it never was removed.

Was it fastened to the floor? It was; there were two sofas.

And it could not be removed from thence? It could have been removed, but it never was removed.

You are positive it never was removed? Positive, till her royal highness disembarked at Capo d'Anza.

What distance was the sofa from the door? About a foot and a half, or two feet at the most.

When the doors were thrown open, the bathing-tub could not be slewed in on one side of the sofa? No, certainly not.

Did you not say that the lights on deck in the tent were put out for fear of pirates seeing you? Yes, after our departure from Jaffa.

Where did the binnacle stand? By the mizen-mast.

Just before the helmsman? Yes, close to the helmsman.

Was the binnacle where the light was put in glass all round? Glass the fore-part and glass on the after-part.

Did you keep the after-part open; were you not afraid of the pirates? The fore-part was generally kept open; there was a hole on the after-side of it; also a very small hole, just sufficient to enable the helmsman to work at the compass.

On what side was the door into the princess's tent? There was no door.

Where was the entrance? It hauled up, it was not confined to the deck, by putting your hand on the lower part, you could lift it up.

When you went to her royal highness on being called, where did you lift up the tent? The after-part, close to the mizen-mast.

When lifted, could you see all through the tent, all over it? With the reflection of the light of the binnacle I could.

And you can take upon you to swear, there was nobody there but the princess of Wales? I can.

You slept on the tiller? I did.

And you also mention, that you could hear two people speaking? If there had been two people in the tent speaking, I could have heard them, if they had been speaking as you now speak.

How comes it you could not hear the princess speaking to you? Sometimes the wind was blowing, and the materials of the ship worked so, that I could not hear distinctly; I heard, but not distinctly, what she had to say.

Was that never the case when you were in your sleeping cabin? I never slept in my cabin from the time we left Jaffa till we got to Sicily, except one night alone.

Where did you sleep then? Over the helmsman, in my cot.

Could you always hear what was said in the tent from your cot? Not always what was said, I could hear there was a voice; but could not distinctly say what it was.

But you could distinguish whether two people were talking or not? I never did distinguish two people talking there.

If two people had been talking there, you

would have distinguished them? I should have heard their voice.

And known that two people were talking? And known that two people were talking.

You were frequently called down to the cabin by the princess, you mentioned, to receive directions? On our voyage out I was.

Was there a light in the dining-room? Sometimes there was, sometimes there was not.

Did you ever see any one sleeping in the dining-room? At night I never saw any one there, I only knew there was a bed placed for Mr. Pergami in the dining-room, and one morning I saw him.

But you never took notice of them there at night? I never went there to see whether he was in bed or not, it was not my duty to go there.

But when you went down, called by the princess, and passed through the cabin, did you ever see Mr. Pergami? Only that once.

That was in the morning? Yes, it was in the morning.

When you were called down by the princess in the night, did you never take notice whether Mr. Pergami was there or not? No, I never took notice; he must have been there I suppose, the bed being placed there for him; there was a screen, I could not see whether he was there without drawing back the screen.

Earl of *Donoughmore*.—On the subject of these memorandums, you say that these memorandums which you have had occasion to refer to in this House, were taken by yourself out of a larger paper memorandum, which you say is not the log-book; have you been always in the habit of taking such memorandums? They were taken from my memorandums by my direction.

Have you on all occasions, on all voyages, been in the habit of either taking such memorandums yourself, or of causing them to be taken for your use by some other person? For my own use.

You have always been in that habit? Yes.

On all former voyages you have been in the habit of taking memorandums, or causing memorandums to be taken for your use? Not on all occasions, I never have.

Have you been usually in the habit of causing memorandums to be taken? For my own private use I have.

You were asked why you did not bring with you the original papers in which those memorandums were first entered, instead of those extracts; to that you answered, that there were some private memorandums in it, matters of your own private consideration, and therefore you left them behind, and only made these extracts; do you mean to say so? I mean to say, that the memorandums, I mean the private ones, were to a degree of speculation, as I had been a long time residing in Sicily, and had become more a mercantile person than any thing else.

You have said that you took these extracts from that larger paper of memorandums for the satisfaction of your friends; what did you mean by that, why for the satisfaction of your friends; explain what you meant by so saying? When in Sicily, I had frequent occasion to see the public papers, and having heard repeatedly that evidences were required in England, and that all the persons who had made the voyage with her royal highness the princess of Wales would be called, and as I was on my return to England, I thought a memorandum of that kind would serve to refresh my memory in case of being called for.

When did you first hear that account? In Sicily, in Messina.

At what period was it that that account came to your ears? To my recollection, I should conceive about three months ago.

Where were you at the time you so heard? At Messina, between three and four months ago.

Was it at Messina, immediately after hearing that account, that you made those extracts from the larger memorandum? Yes.

Was it at Messina you made those extracts, immediately on hearing what you have mentioned to have heard? On my departure from Messina I commenced making them.

Were you just about, at the time those reports reached you to leave Messina? I was.

And then in your voyage you referred to your larger paper to make these extracts? I did.

Having brought the larger paper with you for that express purpose? The small memorandum which I brought was for that purpose.

Do you of course on every voyage take all the papers which you have had with respect to all former voyages? No.

Why did you happen to take upon that new voyage those papers referring to a former voyage? From papers which I saw in Messina, the public papers, which governed me.

What is become of that larger paper; where is that larger paper from which you made the extract? In Messina.

You have come from Messina, and have left it at home? Yes.

Then the larger paper you made for the satisfaction of your friends, and the extract from that paper you have made on account of public reports, and conceiving you might be examined as a witness? Yes, I expected that; I thought it probable.

How long have you been a lieutenant in his majesty's navy? I have been eleven years a lieutenant.

What was the origin of the acquaintance you had the honour of having with the illustrious person who is the subject of this bill? After the siege at Gaeta, where I had served as a volunteer, I was sent to Rome with a general, who commanded Gaeta, from thence I returned to Naples, where I received pri-

vate instructions from the Neapolitan government to proceed to Corsica on a secret excursion, to make inquiry respecting the situation of Murat the ex-king of Naples; then after having sacrificed myself four nights and four days in continuing in the woods among the Corsicans, to gain intelligence respecting Murat, I returned to Naples; having delivered those reports which I had gained to the prince of Hesse, I returned to Messina. The gun-boat which I then was serving in had orders to proceed to Corfu; but before the wind permitted for her to sail, captain Briggs came in in the Leviathan, and I was presented by captain Briggs to her royal highness; from that moment her royal highness enquired what I was going to do, and as I had nothing particular to do, she invited me to proceed on the voyage with her, which I did.

You mentioned, that her royal highness gave you the command of the Polacre? She did.

Do you mean by that to say, that her royal highness gave you the entire control of that vessel? When I say she gave me the command of the vessel, I conceived that every person on board rated to the crew were subordinate to the orders and instructions I might give from time to time.

Do you conceive, or not, that her royal highness, in giving you the command, gave you the entire control of that vessel? I conceived so.

Had you not settled, before the voyage, where each person was to sleep during the voyage? Does the question allude to the crew.

Not the crew but the passengers? Certainly I had, after the ship was hired.

Did you not consider the whole ship and the crew, so far as the voyage was concerned, as under the entire control of her royal highness? Yes, under the control of her royal highness.

Do you not therefore consider, that whilst her royal highness was embarked on board that polacre, she had a right to conceive that she was mistress of that polacre, as much as she was of any house or palace in which her royal highness might reside? Most assuredly I conceive so.

The ship was hired by yourself, and all the persons were paid by you, were they not? They were.

Must they not have conceived, that they were to look up to no person but her royal highness during that voyage? They had to look to her on all those occasions, but all the orders that her royal highness gave from time to time to me, were generally represented by me as much to the captain as any other persons on board.

Did not you therefore consider, that in any thing that her royal highness chose to do, any conduct that her royal highness chose to pursue while on board that polacre, she must have considered herself equally free from any interruption, as if those transactions passed in any house or palace of her own? Yes.

Whilst the tent was upon the deck, do not you conceive, that the crew would take particular care not to incommode her royal highness during the night, by passing too near that tent? Not without the occupation of the ship required it, they would not have done it.

Therefore, speaking of yourself, who had the command, and speaking of your opinion of all the rest, you conceive that every possible pains would be taken by all the persons on board to prevent giving her royal highness the least possible interruption? Certainly.

Her royal highness it appears paid the captain for his vessel? Yes.

The question is not meant to reflect upon yourself, but did you receive any remuneration, and what, for the time you passed on board that vessel, the polacre? For my own trouble, do you mean?

Being as if in the family of her royal highness during that voyage, did you receive any and what remuneration from her royal highness? On my departure from Sicily no arrangement was made for me, nor did I expect it; on my arrival at Tunis, her royal highness sent me a sum of money; I do not know the sum, but I believe I was allowed 200*l.* a year; that sum I rejected at first, stating, I did not join her royal highness for any interested motive.

You had rejected that sum at first? Yes.

Did you afterwards think you were justified in receiving compensation? I was informed that I should give offence to her royal highness by not receiving it.

What was the compensation that you received? I believe, to the best of my recollection, it was two hundred dollars; I cannot be certain.

Is that all you have received? I did receive some afterwards, until I left the polacre at Genoa.

The question is not what you received at any particular period, but state all you received, and the different times you received it, as far as you recollect? I believe myself to have received three time only the sum of two hundred dollars each.

State the particular times, as far as you recollect, of having received each of those sums? The period I cannot recollect; but I believe my memory is so good as to enable me to remember the places where I received it; they were, Tunis, Constantinople, and St. Jean d'Acre.

All you received was during the voyage? Yes.

Have you received any thing since the termination of the voyage? No, I have not.

You talked of 200*l.* a year salary, is there a salary of 200*l.* going on besides? No, there is no salary; the sums I received at different times were all.

You have no salary? No.

Nor do you expect any? No.

You are not at present of her majesty's family? No; nor was I after the ship reached the port of Genoa.

How long have you been come over here? I have been here about a month I believe.

Were you summoned to appear before this House? No, I was not.

Did you come to offer yourself as a witness, thinking you had something material to communicate? I presented myself to her majesty, as having been upon the voyage with her, nothing more than that.

What was the whole sum you received from her royal highness? The three different sums I have spoken of, I believe to have been 600 dollars; 200 dollars each time.

You seem to have been more particular in your observations in the voyage outward, than in the voyage inward; that is, you have been able to speak more to the particulars with respect to where Pergami slept, and appear to have made stronger observations with respect to what passed in the voyage outward, than with respect to what passed in the voyage home, what is the reason of that? I can only speak from this, that going out, I had more occasion to see Pergami, as we generally dined in a place where I saw him every day.

Perhaps you were more in the habit of seeing him? I had frequent occasions of seeing him, daily and momentarily.

In the voyage outward, you have said very decisively where Pergami slept, you have sworn positively that he slept in the dining-room? Yes, I saw him there.

Why are not you able to speak as positively as to the sleeping-place of that person in the voyage homeward, as you were in the voyage out? Because her royal highness having slept on the deck, I had not so much occasion to go down to the bed cabins below.

You were able to swear, from your positive knowledge as to where he slept in the voyage out? Yes.

How does it happen that you are not able to make a belief as to where he slept in the voyage home; what was the length of the voyage; a month? I never went into those apartments, nor drew back the skreen, to see whether he was in bed or not; the skreen was there during the whole voyage out and home.

You were the person who distributed the births, and appointed the sleeping-places of the different individuals in the voyage out; why did not you take the same pains in the distribution of the births in the voyage home?

Mr. Denman submitted whether this question was not in an improper form, as assuming that which the witness had not said.

Did you make a distribution of the sleeping-places of all the passengers in the voyage outward? Yes.

Did you make the same distribution on the homeward voyage? There was no occasion; the bed which I gave him on going out was the place he had in coming home to sleep in; whether he slept there or not I do not know.

You have stated, over and over again, that you do not know where he slept upon the voyage home? I do not.

How is it that as you are so competent to form the negative idea, that is, where he did not sleep, you are not able to state where he slept during that voyage of a month; how is it you feel yourself competent to give the decisive declaration you have given, that he did not sleep under the tent?

Mr. *Brougham*.—Really, my lords, I cannot admit this question to be put. The noble lord has assumed that the witness stated he knew where this individual slept; whereas, on the contrary, he has declared over and over again, that he could not say where this person slept.

Here there was a cry of "Let the Witness withdraw."

The Duke of *Clarence*.—I think the counsel ought also to withdraw.

The Counsel and the Witness having withdrawn,

The Duke of *Clarence* said, he rose to order. It had been said by a noble earl, that when any thing irregular or improper occurred at the bar, no noble lord should cry "Order," but state what passed, and offer his objection to it. He would pursue this course. He conceived that the conduct of the learned counsel, a few minutes before, was not what it ought to be. He thought that the learned counsel had commenced an objection in a manner not suitable to the dignity of the House. He had stated, that "he could not permit a question to be put in a particular way." This is all I have to say. I do not wish to interrupt my noble friend, but I did not think the objection stated in a way suitable to the dignity of your lordships.

Lord *Foley* was of opinion, that a fair latitude ought to be given to the counsel in offering their objections.

The Duke of *Clarence*.—I do not mean to say, and God forbid that I should, that we, who are not professional or learned lords, should not be stopped by counsel, either by those who support the allegations of the bill, or by those who appear for her majesty, if improper questions are demanded. The counsel are, undoubtedly, bound to do their duty. But I think it is the duty of this House to see, that due respect is paid to it; and that counsel, when they address your lordships, should state, in a proper and respectful manner, whether a question, in their opinion, should, or should not, be put.

Lord *Redesdale* concurred in the opinion, that objections ought to be put in the most respectful manner.

The Earl of *Albemarle* observed, that the counsel was stopped in the midst of his reasoning on the question, which he did not consider a just course of proceeding.

The *Lord Chancellor* said, it was nothing more than reasonable that they should allow counsel to interrupt any of their lordships, if he conceived that an improper question was asked of a witness. He apprehended that the learned counsel did mean to act on that principle. At the same time, he was sure, as other professional persons would be, that, in addressing their lordships (he said it without intending to give any body offence, and even if it did give offence, he still felt himself bound to state it), a different language should have been used. The language that had been resorted to in opposing a question was not exactly that which it ought to be. He was sure, however, at the same time, that the learned counsel meant nothing disrespectful.

The Earl of *Donoughmore* thought the House was much obliged to the illustrious person in the gallery for the interruption he had occasioned: at the same time he would do justice to the learned counsel, who, he was convinced, had no intention to give offence to their lordships. He was quite sure that the learned counsel entertained no such intention. His conduct during the whole of this proceeding had been most correct and becoming. He agreed that the objection of the learned counsel would have been a proper objection, if he had stated his (lord Donoughmore's) question as he really put it.

The Counsel were again called in; and the counsel for the Queen were informed, that the mode of objecting on the part of the counsel to any question which might be offered by a lord to the House was, by requesting leave, through the House, to make objection to the same.

The Witness was again called in.

Earl of *Donoughmore*.—Having sworn, on your direct examination, that you did not know where Pergami had slept on the voyage homeward, account how you are enabled to form at once a belief as to the negative, namely, where he did not sleep, that is, under the tent?

Mr. *Brougham* said, he could assure their lordships that he meant nothing offensive or disrespectful in the words that he had used, and which had recently been objected to. He believed their lordships would recollect that, of the 50 or 60 times during which it had been his painful duty to oppose particular questions, he had proceeded in the same way. He had adopted the shortest possible course, and stated, that he could not permit such and such questions to be put. He had, for the sake of brevity, dispensed with his ordinary phraseology, and adopted that language, which, he believed, had always been allowed to the managers of impeachments before that House. Here, on the part of the bar, on behalf of the legal profession, he claimed the same liberty of speech that was allowed to the manager of impeachments. At the same time, he would now wave the exercise of that privilege—he would, for the moment, lay aside that sort of phraseology that had been objected to, and use that language which was most congenial with his feelings, and with the respect that was due to their lordships. He had objected to the former question because it was wholly different from the question now before their lordships, which he considered unobjectionable.

The question was proposed to the Witness.

On the times that I have been sent for, or called for by her royal highness, I never did see him there.

You have said, on your direct examination, that in the day-time you have seen Pergami sitting on the iron bedstead in the tent? I have.

You have seen him sitting on the bedstead in the tent? I have; and I have seen other persons.

Then having seen Pergami sitting on that bedstead in the day-time cannot be a reason for conceiving he did not sleep in it at night? I have no other reason than having been frequently called for on our return from Jaffa by her royal highness, to know how the weather was; I have opened the tent frequently, I do not know the number of times, and have never seen him there; had he been there, I certainly should have seen him, from the light of the binnacle.

This question was put to you at different times by Mr. Solicitor-general; namely, can you have a doubt of Pergami's having slept in the tent; do not you recollect that question having been put to you by Mr. Solicitor-general? Yes, I do.

Did not you answer that question repeatedly, by saying, that you could form no opinion upon the subject; that you had other things to do; that you had the management of the vessel; were not those the sort of answers which you gave to that question, when put by Mr. Solicitor-general?

The following Extract was read from the Evidence of the Witness of yesterday:

"Have you any doubt that during that voyage, and the whole of it, Pergami slept upon that bed under the tent? I cannot say where he slept; I never went to look after Mr. Pergami; when he was wanted, or where he slept, it is impossible for me to say, I can only repeat that I never saw him in bed.

"Have you any doubt that he slept on that bed every night on the voyage from Jaffa to Syracuse? I cannot say.

"Have you any doubt upon the subject? I must certainly doubt whether he did sleep there every night, or whether he slept there

at all I cannot say, for I never saw him there, nor do not know where he slept.

"Do you mean to say you entertain doubts whether he did sleep there, and believe that he did not sleep there? When I never saw him there, I have every reason to doubt that he did not sleep there.

"Do you mean by that to say that you believe he did not sleep there? I believe he did not sleep there.

"Where did he sleep? I do not know; I never went to look where he slept.

"Did you ever see him sleep in the cabin on the voyage from Jaffa to Syracuse? I never went into the cabin in the day-time to see whether he was there or not."

Referring to those several questions, and to your replies to those questions, having so strong an impression, as it appears to have made on your mind, that Pergami did not sleep under that tent, why did not you prevent the necessity of being questioned so often upon the subject; why did you not at once say, I have not only no doubt as to his not sleeping there, but my belief is, that he did not?

Mr. *Brougham* objected to the question, for it assumed, that the witness had said he had a strong or decided impression as to where Pergami did not sleep, while he had said no such thing. The witness had stated his reasons for believing that Pergami did not sleep under the tent, but he had said nothing about a strong impression.

The *Lord Chancellor* remarked, that the question was irregular, inasmuch as it spoke of "appearing to entertain a strong impression;" the usual and proper way being to repeat the words which the witness had used, and to ask him for an explanation of those words. The question in its present shape could not be consistently put.

The question was not pressed.

Earl of *Morton*.—You said something with respect to the fear of pirates, and of putting out the lights in consequence of that fear? I did.

Have the goodness to mention what it was you stated upon that subject?

The following extract was read from the evidence of yesterday:

"Do you recollect the light being sometimes put from under that tent, to be taken away at night? It was taken away for the preservation of the ship, and all on board her.

"How so? We had received information at Athens and at Milo of a great many pirates having been about the Archipelago, and it was then consistent that no lights should be seen upon deck, not to give such vessels an opportunity of seeing us by night.

"Do you know whether there were any pirate vessels; at any time had you seen any? Yes."

When was it that you received that information? We received that information at Milo.

When was it, in consequence of that information, you began to take away the light? After we had left Jaffa.

You first heard the report at Athens? Yes.

And it was after you left Jaffa you began to take away the light? Yes, the information was confirmed.

You have mentioned that you have gone into the tent at night when you have been called at night? I have never gone into the tent.

Have you gone to the door? To the opening.

That you lifted up the tent so as to see her royal highness? I opened it, or lifted it up so as to look in.

How was her royal highness dressed? She was dressed.

Lying on the bed dressed? Yes.

You have stated, that on board of the polacre, the binnacle was glazed both on the side next the steersman, and on the opposite side? Yes, or that there was a drawer or slide, I am not positive which.

You have stated, that it was by the light of the binnacle that you saw the interior of the tent, when you lifted up the curtain, or opened it? Yes.

Was it by the light of the side next the steersman, or the opposite side? It must have been from the light on the opposite side, or from both.

Did not the light from the opposite side of the binnacle strike full on the side of the tent when it was closed, so as to render it visible? It did.

You have stated, that you caused lights to be put out, from an apprehension of being seen by the pirates? I have.

Was that issue of light, on the opposite side of the binnacle, necessary for the steersman? It was not.

Then how came you not to conceal it, in order to prevent the reflection upon the tent being seen by the pirates? It is necessary to give vent to the light in the binnacle, or it will not keep in.

Is it not usual for a binnacle to have air from the top? It is; but when it had not sufficient, it was allowed in other parts.

Lord *Colville*.—State to the house whether you do not think there would have been very great danger of the light in that binnacle being blown out, if it was left open in the manner you describe in the fore-part of it?—If it had been left entirely open, there would.

If there was a shutter, as usual on the fore-part of the binnacle, might it not have been left sufficiently open to admit of air, without any considerable light issuing from it? Yes, and sufficient light to allow me to look into the tent, as it was so near.

In the course of your experience as a seaman, have you not always observed great

pains taken to prevent any light issuing from binnacles at all at sea? I have, on board king's ships, but on board such a vessel as this there was not all those conveniences that are required.

What is meant by the word conveniences there? That it had not a regular funnel to lead the smoke from the light which there generally is on board a man of war; that there were holes penetrated in a piece of lead, which did not admit sufficient air.

Were you correctly understood then, in the early part of your examination yesterday, to have stated, that you were captain or master, or in charge of that polacre, during the voyage which her royal highness the princess of Wales made in her? Yes, by her royal highness's direction I took the command of the vessel.

Can you state whether or not you had the means on board that vessel, under your direction, of having a few holes perforated in the top of the binnacle, or a small funnel let into it, so as to enable the light in that binnacle to burn all night, without exposing the vessel to the risk she run, with so illustrious a personage on board, from the piratical vessels you describe to have been hovering about you? I had not the fitting up of the ship, excepting that part which was made up for the convenience of her royal highness, and did not particularly observe that there was such a thing wanted until it actually was wanted, or if I had I should have done it.

Was the navigation of the polacre in that voyage entrusted to you, the shaping the courses, and keeping the ship's way? Yes, I kept the ship's reckoning myself; it was kept also by the captain and the mate.

By whose reckoning was the ship steered or conducted? Generally speaking, I believe my own.

Be so good as to state more explicitly by whose reckoning the ship was navigated from land to land? We compared our works, and we divided them, and the course was then distributed among the three works, and the course was shaped from those works.

After comparing the respective reckonings with each other, who gave the directions for the course to be steered subsequently? Myself to the captain, and the captain gave it to the other subordinate quarter masters.

You being charged with the navigation of the ship, how do you explain your having said, that the fitting up of the binnacle was but a trifling matter, or something to that effect? I mean to say, that the charge of the ship was not given to me till I left Augusta by her royal highness; I had the order to fit the ship up, but I had not the command of the vessel until we sailed from Augusta.

Did the vessel not possess the means of rectifying any defect in the binnacle when at sea? If it had been distinguished, it certainly would have been, but I did not observe it until the reports of the pirates.

As it appears by your statement, that there were two captains or two masters on board the polacre during the voyage alluded to, state to the House who was the regularly constituted authority having charge of that vessel, her stores, provisions, &c. and responsible to the owners of the vessel for the same? The part owner, who was the captain, I believe; I had nothing to do with the stores, or the victualling of the crew; when I hired the vessel, the victualling of the crew was to be paid by the captain.

State the name of that captain, if he sailed in the ship? Gargiulo.

Whose duty was it to keep the log-book of that ship during the voyage alluded to, the log-book kept in all merchant ships? The mate or the pilot; he is termed pilot in that country.

Was the log-book actually kept by that person? I do not know.

In what book was the ship's reckoning inserted? By the chart.

In what book was it inserted? In the general log-book, I presume.

But you do not know who kept that log-book? I do not.

Was the tent which you have alluded to, on the deck of the polacre erected by your directions? First by those of her royal highness, and afterwards by my own.

Were the directions to the sailors to erect that tent given to them by you, or by any other person? They were given by myself.

In consequence of the princess's directions? Yes.

Can you inform the House the dimensions of the tent; its length, and its breadth, or nearly so? It is impossible I can state the length of the tent, but it was from the mizen-mast to the main-mast.

Did the after-part of the tent, or that next the stern of the ship, touch the mizen-mast? Close to it.

Was it fixed to it? Yes, the ridge rope was fixed to it.

Are you unable to form any idea of the length of the tent, as you must have some notions of the extent of the ship? I did not measure the precise distance, but I should conceive between the mizen mast and main mast there must have been a distance of twenty-two or twenty-three feet; perhaps more, but I cannot be precise.

Are you to be understood to state, that the tent must have been nearly twenty feet in length, or thereabouts? Yes, I should suppose it was.

You stated that the breadth of the ship in that part of it was somewhere about nineteen or twenty feet? Yes; but I cannot be precise, for I never measured it.

How much less than the breadth of the ship was the breadth of the tent, do you suppose? I should consider about a foot, for it hauled out to the rigging on each side. In reference to the mizen mast of the polacre,

where did the binnacle stand? By the mizen mast.

Before it or behind it? Abaft it; it could not be before it on account of the tent.

Are you rightly understood, that the whole of the space inside the tent was sufficiently illuminated by the light of the binnacle to enable a person looking into the tent by lifting up a part of it, as you have described, to see every object in that tent? Yes.

Are you understood rightly, to say, that the communication by the companion ladder, which led from the interior of the tent into the dining-cabin, was always open by night? The passage was open, but the tent covered the hatchway.

What space of time do you conceive was necessary for a person to occupy in descending from the tent to the dining-cabin by that open communication? Speaking of myself as a sailor, I could do it in a second.

How many persons did the crew of the polacre consist of? Twenty-two.

As the navigation of the polacre was entrusted to you, perhaps you can inform the house, how many of those twenty-two sailors were in the habit of going to the helm in their turn? I believe three; I never knew of any more.

How often were they relieved? They performed the whole watch, four hours, exclusive of the two hour watches, which fell from four to six, and from six to eight.

Earl *Grosvenor*.—You have said that you did not know where Pergami slept on the return voyage from Jaffa; do you know where Hieronimus, or any other of the princess's suite, slept during that time? I know where Hieronimus slept.

Where did he sleep? The foremast cabin, on the larboard side.

Do you know where Mr. Austen slept? He slept on the opposite side.

Any other of the suite? Mr. Hownam on the larboard side, where I slept myself; count Schiavini and the doctor on the opposite side.

Can you account for your not knowing where Pergami slept, though you knew where all those members of the princess's suite whom you have mentioned slept? Those persons who slept without the dining-room, I had an opportunity of seeing before I went upon deck, and bade them good night frequently on such occasions.

Have you any other reason? I have no other reason.

Lord *Falmouth*.—When you said that your memorandum was written by your clerk, and afterwards copied by Schiavini, what did you mean; explain that? I explained that it was written by my dictating.

Do you mean one and the same memorandum you have produced in court now? It was copied from the one I have dictated by myself.

Is the document from which Schiavini took that which is in court now in existence? The one I presented was written by Schiavini himself.

Is the document from which Schiavini took that which is in court now in existence? No, it is not.

Did you mean, that your clerk or servant took the first copy, which you brought to this country? Yes.

And that you gave it to Schiavini, who wrote from it the copy you now produce? No, I dictated what he wrote.

Then Schiavini did not write from your original copy of the log or memorandum? From what I dictated he did.

That paper now in court was dictated by you? From the original I brought from Sicily.

Then you did bring the first copy with you from Sicily? Yes.

Is that copy now in existence? It is not.

What have you done with it? I destroyed it.

What was your reason for destroying it? Because it was written in such bad Italian, I did not wish it to be presented.

It was written in Italian wholly, not partly in Italian and partly in English? All in Italian, and very bad Italian.

Are you sure that that was a true copy which you brought to England, of what you extracted in Sicily from your original log or memorandum? Yes.

Did you not state, that when you took that copy first it was partly in Italian and partly in English? I do not recollect to have done so.

Do you mean to state, that the original log was written partly in English and partly in Italian, or that your original copy was written partly in English and partly in Italian? The original was written in English and Italian.

How was the original copy written? In Italian.

Earl of *Lauderdale*.—When was that memorandum which you brought from Sicily destroyed? I do not remember the day.

Can you say within a few days? No, I cannot; I should think five or six or more days.

Did you destroy it the same day that you dictated this new document to Schiavini? Yes, immediately after.

Did you ask Schiavini to write it for you, or did Schiavini begin the conversation which led to his writing it with you? No, I asked the question.

Where did you find Schiavini? At her majesty's house.

Do you live at her majesty's house? No, I do not.

Are you frequently there? I have not been there for five or six days.

Had you had conversation with Schiavini about this memorandum before? No, I never had.

Then you went to the house to get Schiavini to copy it, and then immediately destroy the original? Yes.

Marq. of *Buckingham.*—Can you swear that every time you looked into the tent you saw the princess? Every time I looked into the tent at night, I did see her.

After the rumour had been reported to you respecting pirates hovering about you, did you take any means to diminish the light of the binnacle? Sometimes there was a flag thrown over it, sometimes there was not.

Sometimes the light of the binnacle was masked? Not entirely masked, you could see through the bunting.

Upon those occasions did it ever happen to you to look into the tent, when the light of the binnacle was masked in the way you describe? I do not recollect, but I rather think it did not, for the light of the binnacle was so low on the deck, that there could be no danger of their discovering it, for the binnacle was not above a foot and a half off the deck, and the bulwark of the ship was very high, so that they could not possibly see the light of the binnacle; the light from the binnacle could not be seen, when the light from the tent would have been.

How did you open the tent, by lifting it up above your hand, or by opening it? By lifting it up.

You did not lift it up high enough to get into the tent? No, I did not pretend to go in.

But only to look in? Only to look in.

You said that when the births were originally arranged below, Pergami slept on the outside of the cabin? Yes.

He afterwards removed into the inside of the cabin? Yes.

Was there a regular sleeping place made up for him by a screen? Yes.

A canvas screen? Yes.

Was it rolled up during the day, and let down during the night? I have always seen it drawn in its proper form, so as to cover the bed.

So as to form a sleeping place for Pergami? Yes.

By whose orders did you shift Pergami's birth? I did not receive any particular orders; there was an order given to prepare a cabin for the surgeon that came on board at Tunis, and a cabin was given to him; the cabin which was given to the doctor, was not Pergami's, but count Schiavini's was given to the doctor, and Schiavini took that of Mr. Pergami.

How came Pergami to be removed into the cabin? I do not know; he was removed there. I conceive there were no other orders but the desire of her royal highness to remove him there; I do not know by whose orders he was removed; I shifted the birth; by my orders the birth was made up there.

Did you receive orders to shift the birth from any body, and from whom? I believe to have received it from her royal highness, I cannot be positive; I remember that a birth was requested to be made up in the cabin, but I did not know at that moment who it was for, and that a cabin was to be prepared for the doctor, which it was.

Was it on the larboard or the starboard side of the ship? On the starboard.

In the course of your evidence, you have mentioned a tub which her royal highness used for bathing; do you know whether she ever did use it for bathing? I know that water has been for that purpose; I do not know that her royal highness used it for that purpose, but I have every reason to believe she did, from having heard so.

Where did that tub usually stand? I have seen the tub in the dining-room.

On which side? On the starboard side.

Duke of *Clarence.*—How many years were you a midshipman? I do not know precisely, I believe from seven to eight years.

How many years were you in the king's service, before you were a lieutenant? I believe to have been eight, I do not know.

If you have been eight years a midshipman, and eleven years a lieutenant, you have been accustomed to the sea for nineteen years? Yes, certainly.

Describe the make of this binnacle? It was a small case with two compasses, one on each side, and in the centre a light for the steersman to look to, and on the foreside I cannot be positive whether it was a glass or whether it was a door; it was something of that kind, but I cannot be positive which.

How was the light shown forward? There was an opening, the front of the binnacle.

Was that opening of glass or of wood? I cannot positively say, but I rather believe it was of wood.

If it was of wood, did it move up or down, or athwart-ships? Athwart-ships.

You having stated, that it was advantageous for the safety of the vessel that as little light should be shown upon deck as possible; from your knowledge and experience of nineteen years, could you not have so arranged that binnacle, though at sea, as to have kept the fore-part covered, so that the light should not have been produced forwards? By closing up the front part, the light would not have kept in.

Could you not, as a seaman, have found a means of having let the smoke out, and yet have confined the light from being seen forwards? By making larger holes in the top of the binnacle I could have done it.

If you conceived that the safety of the vessel depended upon the light being as much confined as possible on board, why did you not then make those holes to prevent light being seen on deck? It would then have admitted the water to have fallen on the light in the binnacle, as it was directly over.

What water? The rain or sea.

What was the upper part of the binnacle through which part of the smoke must have gone out? Lead.

Was that part flat or was it at all raised? It fell in rather.

Did you in the nineteen years you have used the sea, ever see a binnacle where the lead fell in before? On board the ships in the Mediterranean they are obliged to have a part in the front of the binnacle open to trim the light, as it is always a lamp.

The question is, why is the lead, instead of being as in a British man of war, where the lead is elevated into a funnel, the reverse way in those vessels in the Mediterranean? I found it so when I went on board; and when it was necessary to be arranged, I had not the means of accommodating it.

Where did you go on board this vessel first? In Messina.

Do you pretend to say, in the port of Messina, you could not have altered so material a thing as the binnacle of a ship, previous to her sailing? No; had I observed such a thing to be wanting, I should certainly have done it, but I did not observe it.

Do you conceive that, having charge of that ship, under the princess of Wales, you did your duty in not having examined that binnacle? I had not charge of the ship at the first moment.

When had you charge of the ship? After I left Sicily.

How many days were you at sea before you touched in port, after sailing from Sicily? One night only.

Where did you hear of the pirates? We heard of pirates at Milo.

Was that in your voyage up? It was.

How many days were you from Milo to your next port? Only a few hours going from Milo to Athens; but we did not put much confidence in the report of pirates till we came down from Constantinople, until we came down to the island of Scio.

Were there no means in the island of Scio to have altered the binnacle? Had we stopped long enough we might have done it.

From the island of Scio, where did you go? To Scala Nuova.

How long did you lie at Scala Nuova? I do not exactly remember: I should think two days.

Could not the binnacle be altered in less than two or three days? At such a place as that I fear it would be very difficult; and I did not observe that the binnacle wanted any of my attention at that time, for I had always heard that the binnacle was in perfect and good condition, and I did not observe it.

The question refers not to the position of the binnacle, but to the positive effect of the binnacle; do you pretend to say, that in the different ports in which you were, you could not have altered the binnacle? If I had found it so materially to want it, I should have done it; but I had not observed it till the moment it was wanted.

Did the binnacle stand amidships? Yes.

It stood abaft the mizen mast? Yes, it did.

The ridge rope of the tent was fixed to the mizen-mast? Yes.

What was the tent made of? Malta cotton, I believe.

It was made of cotton? Yes, the ship's tent.

It was the ship's tent? Yes, the ship's tent was made of cotton.

How was it fastened to the deck? It was fastened to the combings of the hatch abreast, and the part abaft to the side of the mizen-mast.

It was fastened forwards to the combings of the hatchway? No, there were no combings of the hatchway, except that part which went down to the cabin and the skylight.

How was the tent fixed forward? It was fixed to the main mast and to the main rigging.

How was it fixed to the deck itself? There was another piece which joined on the front part of the tent, and that fell down on the deck.

How was that fixed to the deck? It was lashed down to ringbolts.

How was the after-part fixed? One end was lashed, and the other part was tied down with rope-yarn against the mizen mast.

You said you looked into the tent occasionally? Yes.

State the nature of the opening into the tent? Both the fore-part and the after-part of the tent, there are two pieces which fall down from the upper part of it, and the ridge-rope which falls down perpendicularly with the mizen mast; it is there lashed together with rope-yarn, inlaid with rope, not the same as if you had sown canvas to the rope, but a foot short, more or less.

You said that the hatchway was within the tent? Yes, I say so still.

Why was the light at night handed out on deck, and not handed down below? I do not remember its having been handed out of the tent; I never saw it handed out of the tent.

You stated, that the princess's bedchamber had one or two doors? It was one door divided into two.

What was the length of the cabin; you say ten feet? Yes, I should conceive about ten feet.

How many sofas are there in it? Two.

How were the sofas placed? Lashed together.

To which side? To the centre of the ship.

In the centre of the cabin? Yes from the centre of the division off towards the starboard side of the ship.

What space was there between the sofas and the larboard side of the ship; what breadth do you suppose? There might have been as much as five feet or six feet, I cannot positively tell, because going from the starboard is going over to the countess's room.

Suppose the double doors open, could the bathing-tub have been carried into the bedroom? There was not room for it.

You are perfectly sure of that? I am perfectly sure of it.

When the tent was put on deck, was not there an iron bedstead and a sofa placed under it? There was.

Was the sofa taken out of the princess's room? It was taken from the countess Oldi's room.

Were the sofas cleated down in the princess's room? They were.

Did your private log-book differ occasionally from the log-book of the ship? I cannot say.

Earl of *Balcarras*.—Did you conceive yourself entitled to alter, correct, or confirm the regular log-book of the ship? No.

Did the master regularly report to you? He never reported any thing respecting the log.

Did he report to you on common occasions respecting the ship? Such as when it was time to observe the sun he did.

Had you ever any punishment to inflict? No.

Did he report to you as a lieutenant in the navy, who was his superior officer? He always addressed me as the commandant of the ship on all occasions.

Did not you find that half kind of command very inconvenient, and contrary to the good order and discipline of the ship? I cannot say I ever experienced any negligence on the part of the captain or of the crew to my orders.

Did you assume the command because her royal highness was on board, or by virtue of any charter party? I assumed it by order of her royal highness, but the captain consented that I should have the entire direction as to the navigation and manœuvring the ship.

The Witness was directed to withdraw.

Then *William Carrington* was again called in, by order of the House, and further examined by their lordships as follows:

Lord *Melville*.—You stated to their lordships, when you were examined by the counsel who first examined you on Saturday last, that previously to having been in the service of sir William Gell, you had served in the navy, and in the capacity of a midshipman? Yes, with sir John Beresford.

You also stated, in reply to a question which was put to you, "Were you in any other ship in his majesty's service than the Poictiers." "No." I understood that question to apply to my having been with sir John Beresford as midshipman; I had been in other ships before.

Another question was put to you, to which you gave this answer; you were asked what situation you had served in before you were on board the Poictiers as a midshipman to which you answered, you had been at sea in the merchant service when a boy, then you had been on land, and had got your livelihood in the best way you could? I did, I understood the question to allude to my being with sir John Beresford; I was in other ships before that.

Is that last answer correct? Yes.

Then the very next question is as follows; "You are to be understood, that you were never in his majesty's service before?" to which you answered "No?" I understood with sir John Beresford; I understood it entirely alluded to sir John Beresford, during the time I was a midshipman under him.

When you were asked those two questions as to having never been in any ship before the Poictiers, in his majesty's service, and you answered "No;" that answer in point of fact was not correct? No, it is not correct; I was in other ships before I was under sir John Beresford.

State to their lordships in what situation you were immediately before you went to the Poictiers? I was as quarter-master in the Majestic.

You served on board the Majestic before the Poictiers? Yes, I did.

Had you ever served on board any other ships? I served in the Railleur before the Majestic, with the same captain, captain Collard.

Have you ever served in any ship besides the Railleur, the Majestic, and the Poictiers? I think I was a few months on board of a brig but whether I was on her books I do not know; the first pay I received was on board the Railleur.

Have you ever served in any other ship in his majesty's service besides those you have mentioned? Never.

Did you enter voluntarily or were you pressed? I was pressed.

Is the House to understand, you served as midshipman in any of those other ships? No; I served as quarter-master all the time I was on board the other ships, or gunner's mate.

You stated, that you had been at sea in the merchant service when you were a boy, then you had been on land and got your livelihood in the best way you could; for what period were you on land? I was bred and born on the sea coast, I was sometimes on land, sometimes in boats, and sometimes in a merchant vessel, or a coasting vessel.

You were in the merchant service when you were impressed? I was in a boat when I was impressed.

A boat belonging to a merchant ship? Belonging to a coasting vessel, or belonging to the ordnance service.

How long had you been in the merchant service? I do not really recollect; I always got my living in that kind of way from a boy.

You have stated that you had been at sea in the merchant service when you were a boy and then you had been on land? You may call it on land; I was at different parts on land, but always by the sea coast.

You were impressed from the merchant service, into his majesty's service? Yes.

How do you reconcile that with what you have stated here, that you were in the merchant service, and then on land, and got your livelihood in the best way you could? The land consisted of fishing and piloting; in the harvest time I sometimes worked on land, and sometimes on the sea.

You have stated in reply to a question in page 588, "Why did you leave the navy?" that you did not like the sea, and sir John Beresford got you your discharge? Yes.

You were asked, "You are perfectly clear in your own mind that you left his majesty's service for no other reason than at your own request?" to which you answered, "Nothing else"? Yes.

How long had that dislike to the sea been upon you? I had often been promised promotion, to get a gunner's warrant; but I never got it during the time I was in the Majestic: when I came into the Poictiers, I was also told, that I should have promotion; but I never got it till the latter part, when sir John told me, I was to be upon the quarter-deck; I told him I did not wish to be on the quarter-deck, for I had no friends or money to support me on the quarter-deck; that I would wish to leave the service, if it could be got.

As far as you know of your own knowledge, it was at your request only you were discharged, and not at the request of any other person? Not at the request of any other person; at my request, as far as I know.

You never heard that sir William Gell had asked your discharge? I saw sir William Gell when he first came passenger on board the Poictiers, going to Lisbon; he came home passenger in the same ship; he saw me on the poop; he asked me many different questions respecting the ship, and also for a spy-glass to look at a ship in the convoy; it was not a very good one; he sent me down to get his, which I did; and another circumstance happened—I was standing by the wheel at the gun, and he called me into his cabin, which was under the break of the poop, to put on the half port to prevent the water coming in: there were many other little things he asked me to do in the cabin, as he had no servant: when we drew near the land, he said, I am very much obliged to you for your attentions to me during the voyage; I cannot give you any money, but if there is any thing I can do to speak to sir John Beresford, I shall be very happy to do it; I said, there is nothing you can do for me with sir John Beresford but to ask him whether he can get my discharge, as I am not capable of appearing as a gentleman on the quarter-deck, which I understand I am to be, and I had rather leave it; he told me, you ought to consider it well—what will you do when you get on shore? I told him that I would prefer any thing rather than stopping in the navy in that sort of way; that I had no means of supporting myself as a gentleman. He said, consider you are now rated as an officer; I said, I understand that, but I cannot support it, and therefore I had rather leave it: he said, are you sure that you had rather leave the navy, and that is the thing you would wish to be asked; I said yes, that is it: he said, I will ask you to-morrow morning, and you will consider about it more, if you are sure you had rather leave it than remain as a midshipman on board: the next morning he asked me again, and I told him the same—that I had rather leave the navy; he mentioned it to sir John, and sir John said yes, he certainly would do it, there was no difficulty. When we came to Portsmouth, we lay there some time; I heard no more of this for some time, till at last lieutenant Alcock, the commanding officer of the ship, called me upon the quarter-deck, and said, here is something concerning your wanting your discharge from the navy—what is it you mean? I told him what I had said to sir William Gell concerning sir John; he said, you must be mad to go to leave the navy now, now you have got what you have been looking for; I said, it is true I have got it; but I have not the means of supporting it, and I had rather be discharged than remain as a midshipman without any support to appear like a gentleman as the others do: he said, you must be mad, it cannot be so; I shall write to sir John to say you have altered your mind, or something to that purpose: I said pray do not do that, for that is my mind and my wish, and I shall write to sir William Gell to ask sir John to remember his promise, which he did. After that sir William and sir John met, and they thought it was something very mysterious; sir William said we will prevent it; we will send a man down: there was a man sent down to know whether it was my wish, as I had stated before, which it was: there was an acting captain sent, captain Jones I think it was, on board the Poictiers, who gave me a ticket of leave of absence, told me I was to go to London to sir John Beresford, and there to receive my orders, which I did. After I came to London, sir John told me, you are in the same mind, that you wish to leave the navy; I said yes, it is my wish; very well, he says: he ordered me to stay for a few days, and then, when I went to him again, he said, you are to go down to the Thisbe, and ask for your papers, and then come to me again: I went to him; I believe he sent a letter, whether he sent the letter by me or by the post I am not certain, to the commanding officer. I went to the Thisbe; they told me there were no papers there for me, and they knew nothing of my name at the present: I went back to sir John; he told me, it is of no consequence, you remain as you are, and go where you like; if you choose to go into service or any where, nobody will trouble you; if they do, you will apply to me, and I will give them an answer. After which he gave me a written certificate by his own hand. After I had been abroad

two years or better with sir William Gell, I saw sir John Beresford again; I told him I had not received the last pay I had due from the Poictiers; he says, that is very odd, I will give you a letter to a gentleman in Somerset house, and you will go and receive your pay, which I did; and I have never been asked any questions about the navy since, till I came before your lordships:

After having made the statement you have made to the House, do you still adhere to your former answer, that as far as you know, no other person had asked your discharge? No other person to my knowledge.

Are the House to understand that sir William Gell did or did not ask your discharge of sir John Beresford? He told me he would ask sir John any thing that I wished to have done for me; I told sir William Gell that that was the thing I wanted.

Are you acquainted with sir William Gell's hand-writing? Yes, I think I am.

Did you ever see him write? Yes.

Do you think you should know it? I think I should.

A letter was shown to the witness.

Is that sir William Gell's hand-writing? I think it is his hand-writing, I am not certain.

Do you believe it to be his hand-writing? I cannot say, sir William writes different hands; I think it is his hand-writing, but I am not certain.

You are understood to state, that you did not, in point of fact, get a regular discharge? I had nothing further than that given me by sir John Beresford.

Was that the paper? Yes, one written by his own hand, and a printed paper.

Duke of *Clarence*.—You have said you had never been in any other ship in his majesty's service than the Poictiers? I understood with sir John Beresford.

You stated you were in the Railleur and the Majestic, were you turned over from the Railleur into the Majestic? I was.

Did you do duty as midshipman immediately on joining the Poictiers? No, as quarter-master.

Did you not state that you did duty from the beginning on the quarter-deck? No, that I was led to expect promotion.

Marquis of *Lansdown*.—When you stated that you were perfectly clear in your own mind, that you left his majesty's service for no other reason than your own request; did you mean that you considered the request which appears to have been made by sir William Gell, to have been made by your authority? By my authority, or by my wish.

Lord *Colville*.—Upon your last examination you were asked, are you positively sure that from the time you joined the Poictiers you were rated midshipman? I said I did not know I was, I was midshipman when I left it, as I saw in my ticket.

It appears by the Minutes, that the answer you gave to that question was, "I am not certain, whether I was rated at that time or not, I was rated at the time I left it, which I saw upon my ticket," state what ticket you have alluded to? To the ticket of leave of absence, and to sir John Beresford's certificate, which he gave me under his own hand?

You do not allude to a pay ticket? No.

But a certificate? Yes.

You have stated you received your pay at the Pay-office, at a subsequent period? I did.

Were you paid by any voucher produced by yourself? Sir John gave me a letter to a gentleman in Somerset house, this gentleman sent a porter round to the different places where I was to go, and I received my pay.

Do you mean to say you do not know on what voucher you were paid? I had no papers, I never saw any papers after I left the Poictiers.

Did you ever act as midshipman on board? I never kept regularly watch, for I had no clothes nor no money to appear as a gentleman on the quarter-deck.

What duty did you do? As quarter-master, until I was told, I was to be on the quarter-deck, and I remained some time, and did no duty, as I had no clothes.

Did you stand in any immediate relation to sir John Beresford, the commander of the ship? I am no relation certainly.

Or personal attendance? None.

You were not his servant? Never.

You have said, that when you were in the merchant service you sometimes got your living on the water, and sometimes on the land, either by fishing in boats, or working, or piloting? Yes.

Lord *Exmouth*.—Where were you born? I was born in St. Oswyth, near Colchester in Essex.

Is it from Colchester you mean, you got your living in a fishing boat, and went in a coasting vessel sometimes? Yes; from St. Oswyth, near Colchester.

Was that port your usual residence, until the time you were impressed into his majesty's service? It was.

Lord *Ellenborough*.—When you were last examined, you were asked what situation you had served in before you were on board the Poictiers as a midshipman, your answer was, "I have been at sea in the merchant service when I was a boy; then I lived on land, and got my livelihood in the best way I could." The next question is this, "You are to be understood that you were never in his majesty's service before?" to which the answer is, "no." Are you to be understood that you now swear that you considered that second question immediately following the first, which has just been read, to refer not to your service generally on board his majesty's ships, but to your service in a ship with sir John Beresford? I understood it to allude entirely to sir John Beresford, and to my service as a midshipman on board the Poictiers.

The following questions were put, at the request of Mr. Brougham.

Were you ever dismissed from any of his majesty's ships in which you were for misconduct? No, never.

Were you ever charged with any misconduct in any of those ships? Never.

You never were punished for any misconduct? Never.

Had you any quarrel with any of the officers, or any persons on board his ship, that you wished to conceal? Never.

Had you, in point of fact, any thing to conceal in any one of those ships in which you had the honour of serving? Not one.

Have you always given satisfaction to all the officers under whom you have served? Yes, which sir John Beresford will state.

Have you always received certificates of your good conduct from the different officers on your leaving those different vessels? Yes; I have been always recommended in the best manner, on my leaving those vessels, from the one to the other.

Have you those certificates with you? I have not.

The Witness was directed to withdraw.

Mr. *Brougham* requested permission to put to the witness a question which had been accidentally omitted on his former examination; and he would state to their lordships the reason which led him to ask this indulgence. In consequence of the interruption occasioned by the discussion which had taken place on a preceding question, his learned friend, Dr. Lushington, who was examining the witness, had accidentally turned over that page of his brief at the bottom of which this question stood. The question would be found not only in his learned friend's brief, but in all the other five briefs; and he and his learned friends were ready to pledge their honour to the House that it was not a new point which had been suggested since the former examination of the witness. He therefore begged leave now to ask the witness, whether or not he did not know, of his own knowledge, that previous to her royal highness arriving at Naples, on the journey to Naples, William Austin slept in a room apart from her royal highness, at least more than once, he himself having made William Austin's bed on that occasion?

Dr. *Lushington* begged to state to their lordships how this omission had occurred. At the conclusion of the questions, in his brief, stood this one; and preceding it was the business about Majoochi and Ompteda, which, their lordships would recollect, had given rise to a great deal of discussion. He had not forgot, in consequence of that discussion, that another question remained to be put; but, at the moment when he was about to refer to it, a different question was handed to him on a slip of paper, and that put the other out of his mind.

The *Lord Chancellor* said, it was customary to allow a counsel to put a question in such case, when he stated his readiness to pledge his word of honour that he had intended to put it on the examination in chief. [Hear, hear!]

Dr. *Lushington* added, on his word of honour, that the question was accidentally omitted by him when the witness was formerly examined.

The Counsel were informed, that they might propose the question.

The Witness was again called in, and the following questions were proposed by their lordships, at the request of Dr. Lushington.

Upon the journey to Naples did you ever make any beds? I have assisted in making them.

Have you ever made the bed of William Austin? I have assisted in making the bed of William Austin.

Was that bed made in her royal highness's bed-room, or in another? Sometimes it was, sometimes it was not; where there was room enough, it was not; where there was not, it was.

The following question was put at the request of Mr. Attorney-general.

Can you undertake to say you made William Austin's bed out of the room of her royal highness the princess more than once, or only once, in the journey to Naples? I made it more than once or twice; I do not recollect how many times.

Do you recollect the places where you so made the bed? I think the first time I made it was at Domodosola, I think, but I am not certain.

Where besides? I do not recollect exactly the places' names, it was on our way through Italy.

Earl of *Lauderdale*.—When you made William Austin's bed, was it a single bed in the room, or was there another bed in that room? There were generally beds belonging to the house in that room; but this was one bed, his travelling bed.

There was another bed belonging to the house in that room? Yes.

Was that made up at that time? No, I do not think it was.

In that room you only made up William Austin's travelling bed, and the bed in the room was left unmade that night? It was left there; I do not know whether it was made or not; I never saw it made any use of.

The Witness was directed to withdraw.

Then lieutenant *Joseph Robert Hownam* of the royal navy was called in, and having been sworn, was examined by Mr. Tindal, as follows:

Are you a lieutenant in his majesty's royal navy? I am.

How long have you been a lieutenant? Since the early part of the year 1809.

Where do you live at present, where are you settled? At Rouen, in France.

Are you married and settled there with your family? I am.

Did you at any time join the party of her royal highness the princess of Wales? I did.

When was it you so joined her? In the month of April 1815.

Where was her royal highness at that time? At Genoa.

How long did she remain at Genoa after you had joined her? About six weeks.

Do you remember at any time while you were at Genoa, any disturbance happening in the course of any night? I do.

What was the nature of that disturbance? It was supposed, that the house was broken into.

Was there any general alarm made in the night time? There was.

Did you get up in consequence? I did.

Where did you go to? I went into the great hall.

Who was the first person you saw upon that occasion? The first person I saw was Pergami, who came into my room.

Did he give you the alarm? He did.

Had he any thing in his hand at the time? He had a candle, and, I think, a sword.

Did you, after the alarm so given, go down? I was on the ground floor, my door opened into the hall.

You went into the hall? Yes.

Whom did you find assembled in the hall when you got there? I found the princess, and many of the servants.

During the time you were at Genoa, did you ever breakfast with her royal highness? Never.

Have you ever seen her at breakfast? I have.

At the time you saw her at breakfast, was Pergami breakfasting with her? He was not.

Did you ever know him breakfast with her at Genoa? Never.

Were you in the habit of dining with her royal highness whilst at Genoa? Every day.

Did Pergami dine at her royal highness's table any day whilst at Genoa? Never.

Do you recollect at this moment at what place it was that Pergami first began to dine at the table of her royal highness? I do not recollect the name of the town, but it was in a journey over the St. Gothard.

Do you recollect the date of that journey? It was in the month of August.

Do you mean the month of August of the same year? 1815.

You say, the first time of the dining was on the journey, did Pergami continue to dine regularly from that time, or did he begin to dine regularly at a subsequent time? He did not dine regularly after that; he began some time after that.

What was the place of residence of her royal highness at the time he so began? The Villa d'Este.

Do you recollect to what place her royal highness went after she left Genoa? To Milan.

Do you remember when her royal highness resided in a house called the Casa Boromeo? I do.

Do you remember a staircase in that house, upon the landing-place of which her royal highness's door of her sleeping apartment opened? I do.

Was that staircase a secret staircase, or did it lead up to other apartments? It was not a secret staircase, it led up to my apartment.

Do you mean the apartment in which you slept? I do.

Were there any other persons who went up that staircase to their sleeping apartments? There was a door that went to the chambers of the servants, of the lower servants.

Do you know whether that staircase was ever used by those servants in going to their sleeping apartments? I do not recollect having seen them go up it.

Was it a staircase you were in the habit of using when you went to yours? It was.

Where did you go to after you left Milan? To Venice.

Upon a little tour? Yes.

About what time was it when her royal highness took up her residence at the Villa d'Este? I think about the latter end of September.

Do you recollect the position of her royal highness's room, and of Pergami's room, at the Villa d'Este? I recollect where her royal highness slept; I cannot say where Pergami slept at that time.

Were there any stairs near the door of her royal highness's sleeping apartment? There was a flight of stairs.

Was there a door at the top of those stairs? I cannot say.

Do you recollect, upon the long voyage, being at Tunis? I do.

Did you accompany her royal highness during the whole of the long voyage? I did.

Do you recollect where Pergami slept at Tunis? I recollect his pointing me out his room.

Did you see him in the room? He pointed out the room himself.

Did you see him in the room, using it as his own, at the time? Yes.

Was that room in which you so saw him near the room of her highness? No, it was not.

Describe, if you please, the different situations of the two rooms? Pergami's room was the only room up a flight of stairs that any person in the house occupied, I believe I never saw any body else's room there.

Whereabout was her royal highness's room? There were several rooms between the flight of stairs and her royal highness's room, that is to say, there were three or four rooms to pass.

Was Pergami's room on the same story with that of her royal highness? No; it was not; it was up stairs.

Was her royal highness's room on the ground floor? We did not occupy the ground floor.

On which floor was her royal highness's room? On the same floor as all the household.

Do you remember, whilst at Tunis, taking a short journey to Utica? I do.

Did you sleep at Utica? We did not.

Where did the parties sleep on the night of the day when the visit was made to Utica? At the palace of the younger prince, the house is called Sabella.

Were you on board the polacre during the voyage? I was.

Be so good as to describe whether there was any separation between that part of the vessel which was occupied by the captain and the crew, and that part which belonged to her royal highness and her suite? It was quite distinct, it was separated by a bulkhead.

Had the captain of that vessel any duty to perform, which carried him into the part of the vessel occupied by her royal highness? None whatever.

Do you know in what part of the vessel the water-closet appropriated to the use of the women was? I think there were two, one in the cabin of the princess, and the other in the cabin of the countess Oldi.

Had the captain any duty to perform that would take him into the part of the vessel where those were? None whatever, as I imagine.

Did you ever see the captain, during the time you were on board, in that part of the vessel? Never.

Do you recollect landing at or near to Ephesus? I do.

What was the name of the place where her royal highness and her suite slept on the night of your landing? We slept on the plains of Ephesus.

In what manner, what erections were made, or what convenience was there to enable the party to sleep there? Under the shed of a Caffé Turque; a miserable house.

Did her royal highness sleep under this shed? She did.

How was the shed constructed? Whether it was by planks, or by boughs, I am not quite certain.

Was it inclosed on each side, or open in any way? Open.

Where did the suite of her royal highness sleep? All round her.

Did you sleep near her royal highness, amongst the rest of the suite? I did.

Do you remember where her royal highness dined on that day? On the day of her arrival.

Either that or the next day? It was in the churchyard next the coffee-house, where we had slept the night before.

What did she dine under, what was there above her? The portico of an old mosque.

Did she dine alone upon that occasion? I am convinced we all dined together.

Do you mean that you recollect you then dined together? I recollect most perfectly.

How did you contrive to sit upon that occasion? We sat on the ground, her royal highness sat on her travelling bed.

Did any body sit with her on that travelling bed? I do not remember.

Are you sure that the rest of the suite, or a part of the rest of the suite of her royal highness, were there during the time of dinner? I am confident as to having dined myself and every body else.

Do you recollect where the countess Oldi sat upon that occasion? I cannot recollect the spot where she sat; I am convinced we all dined together.

Where did you afterwards re-embark? At Scala Nuova.

To what place did you sail? To St. Jean d'Acre.

Were you either after that or before it at Constantinople? Before that.

How long did you remain at Constantinople? I should think about twelve or fourteen days, or more.

In whose house did her royal highness reside during that time? In the palace of the British minister; we were not all the time at Constantinople.

As long as her royal highness was there? In the palace of the British minister, we were only about five or six days.

What was the name of the British minister? Mr. Frere.

Do you know whether he is alive? I have never heard of his death.

Did you afterwards, in the course of the voyage, land at St. Jean d'Acre? We did.

In what manner did her royal highness travel from St. Jean d'Acre to Jerusalem? Upon an ass.

Is that the usual way of travelling in that part of the world? On asses or mules, or in a palanquin.

How did you travel yourself? On a horse.

Was the course of your travelling to proceed by night, and to lie by, by day? It was.

In what manner did her royal highness rest during the day? Under a tent.

Did you observe whether her royal highness, before she lay by by day, appeared fatigued or not? Excessively so.

Did that appear the case, during the whole of the journey from St. Jean d'Acre to Jerusalem? Yes.

Did you make any particular observation, as to the nature of this fatigue? I have seen the princess fall from the ass more than once.

Do you mean about the latter part of the night? Towards the morning.

Do you remember whether on your voyage to St. Jean d'Acre there was any tent on deck? Yes, there was.

On the outward voyage was this tent constantly erected on deck, or was it only occasionally there? It was occasionally there from the sun or from the wind, while the princess sat upon deck; in fact it was the awning of the ship.

You re-embarked at Jaffa at your return? We did.

Was the weather at that time hot, or otherwise? Excessively hot, it was the month of July.

Had you any cattle on board the vessel of any kind? We had.

What did they consist of? Horses and asses.

Had you more on board on your return than you had on your voyage out? We had none in going out.

In what part of the vessel were those animals kept? In the hold.

Did they make any noise in the course of the night or the day? The general noise of horses and such animals.

Was there any smell occasioned by the animals being put in the hold? Yes there was, certainly.

Where did her royal highness sleep on the voyage from Jaffa homewards? Under the tent, on deck.

By whose direction was the tent put up? By direction of the princess.

Did it remain permanently on the deck from the time of your quitting Jaffa to the end of the voyage? It did.

Do you recollect, at any time, any complaint made by her royal highness as to the rate of the vessel's sailing? Yes, I do.

What was the complaint? It was on the return from the island of Rhodes to Syracuse; the voyage became excessively tedious, and the princess, naturally anxious to get on shore, attributed it to the want of sailing of the vessel; I stated, that she could not be supposed to sail so well with a tent on deck; her royal highness said, As to the tent, I do not care at all about it, I would as soon sleep without it.

What was the occasion of her royal highness sleeping under the tent during the return voyage? In consequence of the excessive heat, and the animals on board.

Do you remember any circumstance relating to a light being kept under the tent? I do.

What was it? The princess, in the previous part of her journey, used to sit on deck to a late hour, and with this light; on leaving Jaffa, from reports that were in circulation of some Tunisian vessels roving the Archipelagan seas, it was by a statement by me to the princess that that light should not be kept on deck all night, as it would serve as a mark to any vessel that might be cruising in those seas.

Had you, in point of fact, seen any Tunisian vessels yourself? Yes, we had seen one at Scio, and another at St. Jean d'Acre.

Do you know of your own knowledge whether they had plundered any vessel? I could not know, but from report.

Did you, in the situation you held, think it a matter of duty to give that advice to her royal highness? I did.

In consequence of that advice, was the light put out earlier than before? Much earlier.

What was the general time of the evening at which the light was put out? It might be from nine till ten o'clock, or later.

How many sofas were there on board the polacre? Four.

Do you know in what part of the ship those sofas were placed? There were two lashed together in the princess's cabin, and two in the countess's cabin.

Was there afterwards any alteration made in their situation? The countess sent one out of her cabin.

Where was it sent to? It was occasionally on deck of the first part of the voyage, and always after Jaffa.

Do you mean that the sofa was beneath the tent? The princess slept on it.

What was there, besides the sofa you have mentioned, underneath this tent? An English travelling bed.

Do you know whether there was any communication open between the tent and the part of the vessel below? There was a ladder that went down into the dining-room.

The Counsel were directed to withdraw, and the House adjourned.

HOUSE OF LORDS.

Wednesday, October 11.

The Order of the day being read for the further consideration and second reading of the Bill, intituled "An Act to de-"prive Her Majesty, &c.," and for hearing Counsel for and against the same; the Counsel were accordingly called in.

Then Lieutenant *Joseph Robert Hownam* was again called in, and further examined by Mr. Tindal, as follows:

You were asked yesterday about the communication between the tent and the part of the vessel below the deck, was that communication open by night as well as by day? The ladder stood constantly there.

Have you had any opportunity of knowing, by going there by night, whether it was open or not? I have.

State upon what occasions that happened? I have in an evening, not knowing that her royal highness had retired, run up that ladder to go on deck, and did not find the tent was closed till I got up.

Was the light out upon that occasion? I imagine it was, I do not recollect to a certainty.

Was the tent of which we are speaking a single tent or a double tent? It was the awning of the ship.

Does that imply that it was single? It was single with the exception of another piece, put round it to make it compleat probably, but the pieces having been put I do not recollect.

The question is, whether there was one tent or whether there were two, one exterior of the other? One only.

Have you any means of knowing whether the opening by which the tent was accessible on the outside was closed or not, so that it could be opened or not by a person on the outside? On board the vessel, I imagine that it could be opened from the outside certainly.

What was the nature of the opening, describe it if you please? As all tents are closed, the two parts of the canvas brought together, not sewed or any thing of that sort.

Then is the mode by which a person on the outside who wanted to go in, would do so, simply that of drawing back a part of the tent? I should think so.

How near was that tent placed to the steersman? It came close aft to the mizen-mast.

Can you state, not precisely, but within about what distance that would come of the steersman? I suppose four, or five, or six feet.

Were there any part of the crew who were up during the night? The watch, one half the vessel's crew kept watch by night.

Was there a passage by the side of this tent from the after part of the ship to the fore-part of the ship? The tent occupied the whole of one side of the vessel, the other side there was a clear passage.

Did the duty of the crew, in the ordinary management of the vessel, carry them at any times from one end of the ship to the other? Constantly.

You have stated that beneath this tent there was a sofa and a travelling bed? Yes.

Do you know upon which of them her royal highness reposed during the night? On the sofa, I think.

Do you know who reposed during the night in the travelling bed? I do not know, for I never was in the tent after night.

Do you know whether her royal highness reposed under that tent alone during the night? I do not know, because I have not seen it.

Do you recollect, during the journey by land from St. Jean D'Acre to Jerusalem, whether her royal highness, during the time she reposed, was dressed or undressed? I never saw her undressed.

Have you any reason to know whether she was one or the other? I have never seen her during the day whilst she was reposing, consequently I have not seen her undressed.

Have you ever happened to go in immediately previous to your resuming your journey? We always dined under her royal highness's tent previously to our departure.

Are you to be understood to say, you do not know whether her royal highness was dressed or undressed during the times of lying by? I do not believe she ever was undressed during that journey.

State the grounds of the belief you have framed? I never saw any bed-clothes on the sofa that was placed in the tent.

This was with respect to the journey by land; as to the tent on board the ship, do you know whether her royal highness was dressed or undressed whilst under the tent? I never saw any bed-clothes on the sofa.

Do you recollect, upon any occasion, an accident happening one night, by a sea breaking into the tent? I do.

Be so good as to describe the nature of that accident, and what you observed? It was on the coast of Caramania, in a squall the sea broke over the quarter of the vessel, and her royal highness came down below to sleep.

Was the accident of that nature to call you up immediately? It was.

Did you see her royal highness at the moment of her coming down? I did.

Upon that occasion was her royal highness dressed or not? She was dressed.

Did you at that moment observe any body with her? The persons handing her down.

Who were the persons or the person handing her down? I think it was Pergami, and Mr. Flinn I think.

Was Pergami at that time dressed or undressed? He was dressed.

Do you recollect during the voyage a bath at any time being taken by her royal highness? I recollect that her royal highness did take baths on the passage home.

When the bath was taken, what was the description of the tub, or the implement used for a bath? It was a common bathing tub, made at Augusta by my directions.

Without asking you as to the precise size of it, was it of such a size that it could or could not be put into her royal highness's cabin when her bed was there? I do not think it possible.

During the time you were on board this vessel, did you ever see her royal highness sitting upon a gun with Pergami? I never saw that.

Did you ever see her sitting on a bench, either with her arms round him, or his round her? Never.

Did you ever see the one kissing the other? Never.

Did you ever perceive any impropriety or indecency of behaviour of the one towards the other, while you were on board the vessel? Never.

Did your duty carry you frequently upon the deck? It did; the management of the ship was chiefly in the hands of Mr. Flinn.

In point of fact, were you generally on deck or not, during the day? I was.

Do you recollect, at any time, Pergami dressing himself up in any particular way on board with pillows? I do.

Be so good as to state the occasion of that circumstance? It was in derision of the English consul at Jaffa, who came on board in long Greek robes, with a gold-laced cocked hat and a gold-headed cane.

Was he a pompous figure, this consul? He was.

Do you remember a person of the name of Mahomet, who was on board on your return voyage? I do.

Do you remember a dance performed by Mahomet? I do.

Can you remember the occasion upon which that dance was first called for? It originated in a sort of quarrel that this Arab had with the doctor; he being sick on board, the doctor wanted to give him some physic; he would not take it, and afterwards he used to laugh at the doctor, and ridicule him by this dance.

Was the doctor angry with him for not taking his physic? The doctor abusing him for not taking the physic was the cause of the quarrel or difference.

When the doctor appeared on deck was Mahomet sometimes called for? By one or the other of the suite pointing to the doctor, and saying "Mahomet, dema, dema," upon which he performed this dance.

The *Attorney General.*—We must not hear what was said by other persons.

Mr. *Brougham.*—I beg your pardon. This is a fact; and all that accompanies a fact is evidence.

Have you any notion of any thing indecent or improper in this dance? Not the least, more than the Spanish bolero, or the negro dance.

Have you ever seen Mahomet performing the same dance on shore? I have, frequently.

Was the dance which you saw him perform on shore the same which you have described that he performed on ship-board? Precisely.

You landed at Terracina after the long voyage? No, at Capo d'Anza.

Before you arrived at Capo d'Anza, did any one land at Terracina? There did.

Who was the person, or who were the persons, that landed at Terracina? Pergami, Camera, and, I think, Teodoro Majoochi.

Was the vessel bound to perform quarantine? We were not in port; we were then at sea.

Would the vessel, at the time of your landing, have been bound to perform quarantine? We had already performed quarantine at Syracuse and Messina, and in all probability, we should have had to finish a long quarantine at any port we should have gone to, our quarantine not being out from Messina.

What was the reason of the persons whom you have mentioned being landed at Terracina? To obtain pratique, in consequence of her royal highness being so excessively fatigued, and being on board so long.

In point of fact, was her royal highness in a state of fatigue and exhaustion at the time? Very much so indeed.

Do you recollect, at the time those persons put off in the boat, who were on the deck of the vessel? Her royal highness and every body.

In what manner did those persons take leave of her royal highness? By kissing her royal highness's hand in a respectful manner.

Did each of the three persons you have mentioned kiss the hand of her royal highness? I think they did.

Did Pergami, or did he or did he not kiss her royal highness upon that occasion? Kiss her face? No, certainly not.

After the long voyage, as it is called, her royal highness went back to the Villa d'Este? She did.

Did she, during her stay at the Villa d'Este, go to the Barona? After staying some time at the Villa d'Este she went to the Barona.

What is the size of this house that is called the Barona, is it a large house, or a moderately sized house? No, it was a small country house fitted up for the purpose.

Was it a house in which any large fête could be given? Oh no.

What was the nature of the entertainments given by her royal highness at the Barona? There were no entertainments, except to the farmers' daughters, to amuse, in fact, the household.

Was the time of which you are speaking, Carnival time? It was.

Did you ever see at those entertainments the wives of persons, as well as their daughters? The eldest of the daughters was married; I do not recollect if any more were married, but I recollect one was married.

The question does not refer to any particular family; but did the persons who attended at those entertainments bring their wives as well as their daughters? I have seen the wife of the chevalier Tamasia and his daughters, the wife of professor Mocatti, and the wife of baron Cavalletti.

Who was the chevalier Tamasia? He had been prefect of Como for some years.

Were the other persons whom you have named, persons who resided in the neighbourhood? Yes, they were, with the exception of the professor Mocatti, who was of Como.

Do you recollect whether the clergyman of the place was there, or not? I have seen him frequently; at the dance I cannot say.

Do you mean that you have seen him frequently visiting her royal highness? Frequently.

Could you mention whether, at the dance described, her royal highness was constantly in the dancing-room, or in what manner she was situated? She was not constantly in the dancing-room, she chiefly remained in an adjoining room; she came in occasionally.

Did you yourself partake at those dances? Always.

Did her royal highness retire for the evening, or not, before the dances were finished? Chiefly.

Whilst you have been at those dances, have you perceived any thing either indecent or indecorous in the parties there? I have not.

Do you recollect a river that is called the Brescia, near the Villa d'Este? Yes, I do.

Of what nature is that river; describe it if you please? It is a sort of torrent, rather than a river.

Is it ever dry, or with little water in it? Certainly, with little water in it. I do not recollect ever to have seen it quite dry; when it rains, it runs with amazing rapidity.

Is it a place that people would choose to bathe in? I should think not.

Do you recollect accompanying her royal highness upon the tour into Germany? I do.

In about what part of the year did that take place? The early part of the year; I should think about March.

That was March 1817? Yes, March 1817.

Do you recollect being at Carlsruhe? I do.

Who received her royal highness at Carlsruhe? There was a grand chamberlain received her royal highness on getting out of her carriage, and a chamberlain appointed to attend her always after.

Do you remember the name of that gentleman? The baron d'Endé.

Did her royal highness pass the greater part of her time at court, or in retirement, whilst she was there? Almost always at court, or in the family of the grand duke.

Where did her royal highness usually dine, during her stay at Carlsruhe? At the court, or else at the Margravine's the grand duke's mother.

Did her royal highness usually sup out? Mostly.

Where was the supper given? At the grand duke's; and I think once at the Margravine's.

Were there any parties assembled on those occasions to meet her royal highness? Always, except the first day's dinner at the Margravine's.

Was it on your way back from Carlsruhe that you were stopped at Scharnitz? If that is the name of the barrier town between the Austrian Tyrol and the kingdom of Bavaria, we were stopped once there.

Do you remember the time of day when you got into this place? I think it was about the middle of the day.

What occasioned your being stopped there? We were travelling in sledges, in consequence of the depth of the snow, and the carriages were behind; the man at the barrier not having a passport, would not take the word of the courier, or ourselves in fact, that it was the princess of Wales, and he stopped us from passing.

Did that make it necessary for any person to go back to Inspruck? Mr. Pergami went back immediately to Inspruck with captain Vassali, I think, to procure passports.

Do you recollect at what time Pergami and captain Vassali returned back to Scharnitz? I should think it was about one or two o'clock in the morning, it was very late.

Was that on your road to Vienna? It was in the road to Munich going to Vienna.

Did you afterwards, on your return from Vienna, pass through Trieste and Venice? We did.

Do you remember her royal highness arriving at Trieste? I do.

About what part of the day was it? The middle of the day, about noon I should think.

Did any one receive her royal highness upon her arrival at Trieste? The governor was sick in bed, and I think it was the vice-governor who received the princess, at least that came to the inn after she arrived.

Do you remember the name of that nobleman or gentleman? I do not.

In what manner did her royal highness pass that evening? We went to the Opera.

When did you leave Trieste? The following day, about five or six o'clock in the evening.

Do you recollect that distinctly? I positively recollect it.

Have you any particular reason for your distinct recollection of this fact? I have.

What is that reason? I have a letter that I wrote at the time from Venice on our arrival at that place; it is dated on the 18th of April, in the morning.

Have you got the letter in your pocket? I have.

The Witness produced a letter.

Is it a letter written to the lady whom you have since married? It is.

Was that letter sent from Venice? It was not only sent from Venice, but it was charged at the post-office.

Has it the Venice post-mark upon it? It has.

Is there any passage in that letter by looking at which you are certain you arrived at Venice on the 17th? Certainly, it is dated the 18th from Venice.

Can you by looking at that letter state the day on which you arrived at Trieste? We arrived at Trieste on the 15th.

Is it a journey of one day or more days between Trieste and Venice? It was a good journey of twenty-four hours post.

Did it occupy you about that time to perform the journey? On the night of leaving Trieste, we stopped some time at a small village in consequence of something happening to one of the carriages, and the sea breaking over the road; in fact it was bad weather.

Do you happen to remember the name of that village? I do not recollect the name of it.

Was it called Monte Falconi? I cannot

say; it was after descending the high hills about Trieste.

Do you remember a gentleman of the name of the baron Ompteda? I do.

Was he in the habit of visiting at her royal highness's house? Constantly.

Do you recollect his visiting at Genoa? I do.

Did he dine there, or only call there? He dined there.

At that time was Teodoro Majoochi in the service of her royal highness? He was.

Was it his duty to wait at dinner at that time? It was; he was a footman.

Did you see the baron Ompteda again at Milan, or where? At Milan, and at Como also.

On those occasions was he visiting at her royal highness's? Yes.

Did he dine at either of the times you have last mentioned? Yes.

Do you remember his coming to the Villa Villani? I do.

How long did he stay there? Sometimes he stopped over night; I am not quite sure whether one or two days; but I am certain that he stopped over night.

Do you know whether there was a room in the house that was called, in the family, baron Ompteda's room? Yes, he always occupied the room appointed for him.

At the times last examined to, was Teodoro Majoochi still a servant? Still a servant in the house.

Have you ever yourself conversed with Majoochi upon the subject of baron Ompteda? I have never spoken to Teodoro Majoochi except upon our arrival at Rome, some time after baron Ompteda had been at Como.

In the course of that conversation did you mention the name of baron Ompteda? I did.

In the course of the different journies you have made with her royal highness, was it customary or not, to be shown into rooms of entertainment where beds were standing? Very frequently.

Was it a thing at all uncommon to be shown into a room of that description? Not at all.

Do you recollect her royal highness giving you any directions as to Ompteda? I do.

Or making any representation to you on the subject of Ompteda? Yes.

What were the directions her royal highness gave to you?

The Witness was directed to withdraw.

The *Attorney General* objected to the question. He apprehended that the declarations of her royal highness to the witness respecting Ompteda was not at all the matter in question, and could not be received in evidence. If all the directions which her royal highness gave to the witness were to be admitted in evidence, they would not know where to stop; because in that case, every thing that she had from time to time said to Mr. Hownam might be given in evidence before their lordships. The conduct of her royal highness certainly was evidence; the fact of any representation of her's might also be given in evidence; but the nature of those representations could not be received in evidence.

Mr. *Tindal* said, he apprehended that any directions given to the witness by her royal highness, and which were afterwards communicated to Ompteda, might be given in evidence. Suppose, said he, that we shall be able to prove, that Ompteda was requested never again to enter the house of her royal highness, we cannot prove that simple fact without first calling the attention of the witness to the directions to that effect which he received from her royal highness. I apprehend that these directions or commands may be legally given in evidence.

The *Lord Chancellor* suggested, that the regular course would be, first, to ask the witness whether he did such and such a thing, and then whether he did it by her royal highness's directions.

The Witness was again called in.

In consequence of any directions from her royal highness, did you do any thing, or take any step with respect to baron Ompteda? I did; it was not a direction, it was a representation.

What did you do? I called him out.

Did you at any other time, do any thing at Rome with respect to baron Ompteda? I did.

The *Lord Chancellor* directed the counsel, first to ask what he did, and then to ask the directions under which he did it.

What was it you did? I told the servants of the house they were not to molest or to take any notice of the baron Ompteda, should they meet him.

Was Majoochi one of the servants? I am most positive he was one.

Do you recollect upon any occasion her royal highness visiting any of her servants when ill and in bed? Frequently.

Do you recollect in particular her visiting a servant of the name of Camera? I do, at Jerusalem.

What was the nature of his complaint, or supposed complaint? We imagined it even to be the plague; it was very severe.

Was that stated to her royal highness before she visited him? That I cannot say; but he was excessively ill.

Did she in point of fact visit him? I was not present in his room, to my recollection.

Do you recollect her visiting any other persons of her suite? I do.

Upon the various occasions you have seen her royal highness, was she received at the different courts where you visited by persons of the first distinction or not? All, except Vienna.

Who was the ambassador at Vienna? Lord Stewart.

Upon those occasions, when she was so received, what was the conduct and demeanor and appearance of her royal highness? Every thing that was majesty and grace.

How was she treated at those courts? With the greatest respect and attentions.

Do you remember her royal highness travelling from Ancona towards Rome? Yes, I do.

Do you happen to know who was the courier employed upon that occasion? I cannot say positively, I think it was Carlo.

Do you remember the subsequent journey from Rome to Sinigaglia. I do.

Do you recollect in what carriage her royal highness travelled upon that occasion? She travelled in an English landaulet, I am most positive as to this fact.

In what carriage did you travel yourself? I was in an English landau, I think, it is a long time ago.

Do you remember who accompanied you in that landau? I think the count Schiavini, mademoiselle Demont and her sister.

Do you remember any thing happening to the countess Oldi in the course of that journey? No.

The question refers to the journey from Rome to Sinigaglia? She was ill in the journey from Ancona to Rome.

When she was taken ill on the journey from Ancona to Rome did that occasion any alteration? She changed carriages; she went into the landau, and mademoiselle Demont went with the princess in the landaulet.

Did you go back from Rome to Sinigaglia? We did.

Was that the only journey you took from Rome to Sinigaglia, until after the late king's death? That was the only journey I ever performed from Rome to Sinigaglia.

Have you any recollection yourself, who did perform the office of courier upon that journey? I do not recollect; there were two couriers, Carlo Forti and Sacchini.

Do you mean two couriers in her royal highness's service? I do.

Can you, by adverting to any thing, recollect which of the two rode as courier upon that journey? I do not recollect positively which of the two it was.

Do you remember at all, whether Sacchi was taken ill upon any occasion? I do, it is very imperfectly in my recollection, I remember he was not well.

When the name of her royal highness is mentioned to you, does that bring to your recollection any thing about his being ill? No.

Do you remember, in the journey to Rome, any accident happening as to the horses of any of the carriages? I do.

What was that accident? It was an accident from the horses of the princess's carriage taking fright on leaving the post.

How long upon the whole have you been in the society of her royal highness, as part of her suite? Only since the month of April 1815.

Down to what time? Down, I believe, to the present time.

How long have you been actually living with her royal highness? To April 1818.

From April 1815 to April 1818, have you been constantly living with her royal highness? I have.

During the whole of that time have you ever seen any thing in the conduct of her royal highness towards Pergami, or of Pergami towards her royal highness, that was improper, indecent, or degrading to the station of her royal highness? I have not.

What salary had you during the time you were attached to her royal highness's suite? Two hundred pounds a year.

Does her royal highness continue that salary up to the present time? She does.

Cross-examined by *Mr. Attorney General.*

You are a lieutenant in the navy? I am.

How long have you been a lieutenant in the navy? Since May 1809.

How long had you been in the navy before you were made a lieutenant? Six years.

Your father had been in the service of her royal highness? He was.

He was a page, was not he? He was.

Do you know how long he was in that service with her royal highness? In the service of her royal highness, I do not know; but all his life in the service either of his present majesty or of the princess Charlotte.

Her royal highness interested herself about your promotion? Very much.

And through her good offices you were promoted to the rank of lieutenant? I was.

When was it you joined her royal highness's suite? In the month of April 1815.

At Genoa? Yes.

In what capacity? I cannot positively say in what capacity, but I was given the salary of an equerry, as I was told.

You do not know in what capacity you were in her royal highness's suite? I did not at that time, except the conviction that it was as equerry.

What situation did you subsequently fill in her royal highness's suite? None.

How long were you at Genoa before her royal highness quitted it for Milan? I should think about six weeks.

Pergami was a courier at that time? He was.

He wore the dress of a courier? He wore the dress of a courier.

How long after your arrival at Milan was her royal highness left without an English lady of honour? Her royal highness was left without any English lady of honour about ten or twelve days, I think, after her arrival at Milan.

How soon after she was left by her Eng-

lish ladies of honour did the countess Oldi come? A very short time, one or two days probably.

Before the countess Oldi came, had Faustina and the little Victorine come into her royal highness's family? They came to Genoa with the child, but I never understood they were in the family.

Did not they live in the family? I never saw them at Genoa, but by hazard in the garden.

How often did you see them by hazard in the garden? I might have seen them once or twice, sufficient to know that they were there.

That is in the garden? In the house, they were in the house.

Do not you know they lived in the house at Genoa? I know they lived in the house at Genoa.

In the princess's house? In the princess's house.

When did the mother of Pergami come to the princess's? At that time, I think, she came with the child.

Was she also in the house of the princess at Genoa? Yes, I speak to the best of my recollection.

Did not Louis Pergami also come into the family at Genoa? He was there when I arrived.

What situation did he fill in the family at that time? Page.

Do you mean that he was an upper servant or a footman only? An upper servant.

At that time? Yes.

Did he wear the livery? Yes, a sort of uniform rather than a livery.

You have stated, that you accompanied her royal highness in a tour she took to Mount St. Gothard? I did.

Did not Pergami accompany her royal highness on that occasion as a courier? He was dressed in a courier's dress, but he then road in a carriage.

In what carriage did he ride, and with whom? He rode in an open calash, but with whom I cannot say.

Was it not with Hieronimus? I think it was.

Was not Hieronimus the other courier at that time? Hieronimus did travel occasionally as a courier, but he was maitre d'hotel, as I always imagined.

Had not Hieronimus a courier's dress on? He had.

Hieronimus and Pergami, both having courier's dresses on, travelled together in the same calash? Both.

In what month was that tour taken? I think in the month of August 1815.

In the course of that tour did not Pergami dine with her royal highness at Bellinzona? He dined with her royal highness, I think it was at Bellinzona.

Who dined with her royal highness besides? There was the professor Configliac, who accompanied her royal highness, and a man who was living in the mountains, I do not know what he was.

Was not Pergami at the time dressed as a courier? He was.

Did you dine with her royal highness upon that occasion? I did.

And remained at the table during the whole of dinner? I did.

You have said, that he did not dine regularly at that time with her royal highness, did he after that time occasionally dine with her in his courier's dress? Never afterwards in his courier's dress.

When did he begin regularly to dine with her royal highness? At the Villa d'Este.

In what month? I think it was about the month of September that we got to the Villa d'Este; but I cannot speak to a few days at this period.

Did not Pergami dine with her royal highness at Lugano? That was on the return from the journey to Mount St. Gothard.

He did dine with her royal highness at Lugano? I think he did.

Was he not then courier, as he was upon former occasions, when he dined with her royal highness? It was upon the same journey.

Do you remember any other place, in the course of that journey, in which they dined together? No, I do not.

At the Devil's Bridge did they dine together? That was on the same journey; I rather think they did.

On those occasions, on that same journey on which Pergami dined with her royal highness, was he not in the dress of a courier? He was.

When you were at the Villa d'Este Mr. Burrell left her royal highness? He left at the Villa Villani.

That was just before you got to the Villa d'Este? It was.

Mr. Burrell was not on that journey to Mount St. Gothard? He was not.

Nor doctor Holland? Doctor Holland had left at Venice.

Then was there any other English gentleman with her royal highness, except yourself, on that tour to Mount St. Gothard? None.

When you were at the Villa d'Este, have you not frequently seen her royal highness and Pergami walking together? I have.

Before you set out on the voyage? On the long voyage, yes.

Have you seen them together in a canoe on the lake? I have seen them together in a small boat.

With no other person with them? The boat was not big enough to hold a third, I should imagine, that is to say conveniently; it was a canoe.

When you have seen them walking together, have you not seen them walking together arm in arm? I have seen them walking together arm in arm.

At the Villa d'Este? Yes, as I have seen her walk with other gentlemen.

You have stated, that during the whole course of the time you were with her royal highness, you saw nothing improper, indecent, or degrading to her station, in her conduct towards Pergami? I have.

You have stated, that you saw her dining with him, when he was a courier in his courier's dress, that he afterwards walked with her at the Villa d'Este arm in arm; they went out together in a canoe alone, and that he then began regularly to dine with her royal highness; do you think that conduct degrading or not? I never saw her royal highness walk arm in arm with him, until he began to dine regularly with her royal highness.

You must perceive that is no answer to the question, do you consider that which you have stated as degrading to her royal highness, or not? I do not.

You have stated, that you do not remember seeing her walking arm and arm with him till he dined regularly at the table; did you not see them walking arm in arm in the course of this journey to Mount St. Gothard? I do not recollect it; I swear I do not recollect it.

Will you swear they did not? I will swear, to the best of my recollection, that I did not see them.

You say you did not consider this at all degrading to her royal highness; have you never represented it to her as degrading to her that Pergami should dine with her? I never did.

Did you never desire her royal highness not to admit Pergami to her table? Not to my recollection I did not.

Nor any thing to that effect? Nor any thing to that effect.

Have you never entreated her royal highness not to admit Pergami to her table? I never did.

Then if you never did entreat her royal highness not to admit Pergami to her table, you never did represent that to any person? I do not think I ever did; I could not.

You are not asked whether you could or not, but whether you have ever represented to any person that you had entreated her royal highness not to admit Pergami to her table? I am confident I did not.

You are positive you never did? I am positive I never did; I feel convinced I never did.

Have you never stated that you entreated her royal highness on your knees, and with tears in your eyes, to dissuade her from admitting Pergami to a seat at her table, but without effect? Never; I never did such a thing.

You are not asked whether you ever did such a thing, but whether you ever stated to any person that you had so done? I do not think I ever did; I have no recollection of the fact; I could not have done so.

If the fact never happened, you can have no doubt you never did? I have no doubt within myself.

Is it to be understood, that you now swear you never made such a representation to any one that you had so done. I will read the words again, "that you have never stated that you had entreated her royal highness on your knees, and with tears in your eyes, to dissuade her from admitting Pergami to a seat at her table, but without effect?" I swear not to have the smallest recollection, and I do not think I have done it; I have not done the thing.

You are not asked whether you did actually entreat her royal highness on your knees, but whether you have ever stated that you did, or to that effect? I have not the smallest recollection of ever having stated such a thing.

Will you swear you have not? I swear, to the best of my recollection, that I have not.

You say you swear to the best of your recollection; will you undertake to swear positively one way or the other? I swear as positively as I can; I have no recollection of the fact; I have no recollection of ever having said so to any person.

Will you swear you have not so said? I will swear, as I said before, I have no recollection of the fact. I cannot swear to a thing I do not recollect.

You have already sworn that the fact was not so; that you did not entreat her royal highness not to admit Pergami to her table; can you have any doubt that you have not said so? I have no doubt that I never said so; at least, I have not the smallest recollection of the fact.

Were you on board the Leviathan? I was.

Do you know captain Briggs? I do.

Upon your oath, did you never state that to captain Briggs? Upon my oath, I do not recollect the circumstance.

Will you swear you did not state that to captain Briggs, "that you had entreated her royal highness, and with tears in your eyes, to dissuade her from admitting Pergami to a seat at her table, but without effect?" I have not the smallest recollection of ever having said the like to captain Briggs.

And that that happened the day that the princess changed the condition of Pergami from being a servant to being a companion? I do not recollect having said any thing of the sort to captain Briggs.

Will you swear that you did not? I will swear that I have no recollection of it.

Is that such a circumstance as that you can have forgotten it if it took place? It is such a circumstance as that I should have recollected it, I think.

If the fact be true, can you have any doubt you would recollect it; and if it be not true, have you a difficulty in swearing it did not take place? It is some years ago; it is a long time ago; I cannot recollect the fact.

You have sworn that the fact did not take place; would you, as a gentleman, have re-

presented that that fact had taken place if it had not? The fact is true, I did not do the thing.

If the fact is not true, could you have represented the fact to have taken place to any other gentleman? I should imagine not.

Have you any doubt upon that? No, I do not think I did.

Although you do not think you did, is it to be understood that you will not swear you did not state so to captain Briggs? I cannot swear to a thing I have no recollection of; that is impossible.

What do you believe; do you believe you stated it or not? I do not believe I did.

Then you will swear you do not believe you stated that to captain Briggs, but you will not swear positively you did not; is that to be understood to be your answer? Yes.

How long were you on board the Leviathan? About three weeks.

Where did you leave Pergami's mother and his sister, before you went upon the long voyage? I think at the Villa d'Este.

How was the mother addressed by the persons in her royal highness's family; what was the name given to her? Madame Livia Nonna, the name given her in the family.

Do you mean to state, that she was called madame Livia in the family before the long voyage? I cannot positively say that, for I do not think I ever spoke to her more than once or twice; if I did speak to her I did not call her Nonna; I do not know what she was called.

Did you ever hear her royal highness call her Nonna? Frequently.

After Mr. William Burrell left, and when you were at the Villa d'Este, was her royal highness in the habit of amusing herself at games with the servants? Very frequently; it was more to amuse William than any thing else, I believe.

Did her royal highness join in those games? Yes.

Was the game Colin Maillard one of them? There were several games, what they call the Petits Jeux.

Were those games played before Mr. Burrell left her royal highness's service? I do not recollect.

Have you any doubt that they were not? I rather think they were played even while he was there; I am not certain, but I have no perfect recollection of it.

You know he left at the Villa Villani? Yes.

The question refers to the Villa d'Este? Then he was not there, but the same games were played at the Villa Villani.

Before he left? Yes, and every where else.

Do you mean to state that Mr. Burrell joined in those games; that they were played when he was present? I do not recollect the fact of his being there.

Had Pergami ever dined with the princess before Mr. Burrell left? No.

Was there any other English gentleman in her suite, except yourself, at the time Pergami began to dine with her royal highness? I was the only English person in the suite.

Were Pergami and his brother Louis present at those games you have been talking of? Yes.

Faustina the sister? No, I do not think she was.

Was not she living in the family at that time? I do not think she was; I do not recollect seeing her there.

Did you ever see her royal highness perform on the theatre at the Villa d'Este? Yes.

Have you not seen her perform the part of Columbine when Louis Pergami was the Harlequin? I do not recollect that, but it was before more than two hundred persons that she performed; I do not recollect what parts she performed.

Do you recollect Louis Pergami performing with her royal highness? Every body performed on the stage together, at least all the household; the piece, whatever it was, was composed of the persons of the house.

Was Louis Pergami one of them? He was.

Will you swear that you do not recollect her royal highness performing the part of Columbine? Upon my word it is not marked on my memory that she performed the part of Columbine.

Do you mean that the general conduct of her royal highness was such, that you have no recollection of her performing the part of the Columbine with Louis Pergami? I do not recollect whether she performed the part of Columbine; there were two or three pieces that evening; she may or she may not; I do not positively remember that evening.

Or on any other evening? No, that was the only time that was performed; there were rehearsals to that little piece that was performed.

I thought you said there were two or three pieces? Yes, on the same evening; I do not recollect perfectly what they were; amongst the rest there was a dance, I believe.

Did her royal highness dance? Yes.

With whom did she dance? With all indiscriminately, I do not know with whom; the chevalier Tamasia performed, and Doctor Mocatti, I think, performed also.

Do you mean to say you do not remember whether her royal highness danced with Louis Pergami on the stage that evening? I do mean positively to say, that I do not recollect having seen her royal highness dance with Louis Pergami; she may, or she may not.

Was not one of the pieces a Harlequinade? Yes, I think it was.

Who performed the part of Harlequin? I have seen Louis Pergami dressed as Harlequin; he had the dress.

Having recollected who was the Harlequin, do you not remember that her royal highness was the Columbine? No, I do not recollect

the fact; if I was to say it, it would be only because you say it; I do not recollect that her royal highness performed the part of Columbine, the thing is not sufficiently impressed upon my memory to declare that it was so.

You will not say that she did not perform the part of Columbine? I will say as much one way as the other; I do not recollect.

Do you remember any part that the princess performed that evening upon the stage? Yes, I think she performed the part of an Automaton.

What do you mean by an Automaton; in what way did she perform? The history was —it is so long ago that I do not recollect, but it was a man that wanted to sell an Automaton, a woman in fact that you could wind up to any thing; I forget the history of the thing; it was a farce upon the person who bought it, to find his mistake; it is a long time ago, I do not recollect the whole of the story; it was a little story composed by the princess herself, I believe.

Then her royal highness was the Automaton? Yes, I think she was; she was in fact.

Did Pergami perform the part of the person who wanted to sell the Automaton? No, I think it was the chevalier Tamasia.

Who was the person that was to purchase the Automaton? who performed that part? I think it was professor Mocatti.

Did Pergami perform in that piece? I do not think he did.

Did her royal highness play any other part that evening in any other piece? I cannot remember, it is so long ago.

Cannot you recollect her performing some part with Pergami? No, I cannot recollect what part she performed.

Do not you remember Pergami performing the part of a sick person? No; I recollect Pergami performing the part of a fiddler, a sort of a fiddler.

That is another time? Then I have confounded the two, I only remember one.

He performed the part of a fiddler; did not her royal highness on that occasion perform the part of a milkmaid, or a person in low life? I do not recollect what part her royal highness performed, but there were more than two hundred people there; there were plenty to see.

Do not you remember that on that evening she did perform the part of a milkmaid? No, I do not remember the fact.

Or on any other evening? No, I have only a recollection of that one evening.

Did not Pergami perform another part that evening, besides this dance? It is very probable, but I do not recollect.

Did not he perform the part of a physician, and her royal highness the part of a sick person? I do not recollect the fact; I have a slight vague remembrance of something, but I cannot charge my recollection with it.

Do you remember, before your setting out on the long voyage, Saint Bartholomew's day being kept at the Villa d'Este? I believe it was on that very day that this piece was performed at the theatre.

Was that day kept in honour of Pergami? I do not recollect whether it was St. Bartholomew's day, or what day; I recollect some great fête at which this piece was performed, but to say it was St. Bartholomew's day I cannot.

Do not you know that this fête was given in honour of St. Bartholomew? No, I do not; I think it was given on christening the Villa d'Este, on taking possession of the place, which was formerly called Il Garo, and it was christened by the name of Villa d'Este.

What month was it in? It was before our departure; we left on the 14th of November; I cannot say whether it was a week, or a month, or six weeks before our departure.

Whether it was the day on which this theatrical representation took place or not, was there not a fête at the Villa d'Este on the 24th of August, St. Bartholomew's day? I cannot recollect whether there was a fête on that day or not, there might have been.

Is there nothing to bring to your recollection whether that fête was on the 24th of August, St. Bartholomew's day, or not? I think it was about that time, the 24th of August we were performing the journey to St. Gothard; it was in the early part of August; we had not got possession of the Villa d'Este then.

Was there no fête given at the Villa d'Este before you actually took possession of the Villa d'Este? No, I do not remember that there was.

Did you accompany her royal highness to Venice? I did.

With Dr. Holland? With Dr. Holland.

You remained at Venice during the time her royal highness was there? I did.

You have stated, that you accompanied her royal highness on the long voyage; before that voyage had Pergami been raised to the rank of a baron? No.

Before your leaving Sicily? Before our leaving Sicily he was.

And a knight of Malta? And a knight of Malta.

When you first went on board the polacre, where did Pergami sleep, where was his sleeping-room? I think he had the after of the small cabins on the starboard side.

What sized vessel was the polacre? I should suppose about 260 tons English.

About what width was she at the stern? Probably about eighteen feet, or not so much, but I may be out, I never measured it.

She was a vessel of about 260 tons? Yes, the Italian vessels, the foreign vessels fall in very much; they are not built so wall-sided as ours are.

You have said that Pergami at first slept in a small cabin? The after cabin on the star-

board side of the vessel, one of the small cabins.

Was that next the dining-room? It was.

Who slept in the cabin next to him on the starboard side? I think it was the count Schiavini.

Who next to him? William Austin.

Who next to William Austin, do you recollect? I think Camera.

Who on the other side, the larboard side? The two maids, the after cabin next the dining-room.

Who next to them? Myself.

Who next to you? Mr. Flinn.

Who next to him? Hieronimus.

After you left Tunis, did Pergami sleep in the dining-room? Yes, he did.

You have stated, that whilst you were at Tunis you visited Utica? I did.

Where was it you slept on the night of the day you visited Utica? We slept at the palace of the younger prince Sidi Mustapha. called Sabella.

Utica itself is in ruins? In perfect ruins.

How far from Utica is the palace of that younger prince? I should think eight or nine miles.

How far is Utica from Tunis? About two and twenty miles.

After having visited the ruins of Utica from Tunis, you went to sleep at the palace of this younger prince? We returned to Sabella.

You have stated, that on board this polacre, there was a tent on the deck? I have.

And that on your return from Jaffa, the princess slept under that tent? Constantly.

Was that tent always of the same size, or had it been more contracted at first and afterwards enlarged? From Jaffa, I imagine, it was always of the same size; I do not know of any particular difference.

When you say you imagine, do you recollect one way or the other, whether the tent, when first it was put up, covered the passage which you state there was from the deck to the dining-room? I think it always covered the passage.

Are you quite sure of that? I am quite sure with myself, I have no recollection of it any other way.

What was the size of the tent? It might have been ten feet in the length, and the sofa was about six feet; I suppose it was about four feet more, about ten feet.

How wide? It included one side of the ship, and the hatchway of the ship perfect.

How wide do you think it was? I suppose it might have been sixteen feet altogether.

You say there was a sofa and a bedstead under that tent? I do.

Whereabout was the bed-stead, with reference to the sofa, under that tent? The bedstead was at right angles with the sofa.

How near? Three or four feet apart.

How near was the nearest part of the sofa? I mean the adjoining angle of the sofa and the bed I should imagine to be about three feet or four feet apart.

You have stated, when you were off Caramania an accident happened, and that her royal highness came below to sleep; where did she sleep? At first she laid down upon the deck; afterwards she went into the cabin of William, where the water came in; and lastly, she came and lay upon my bed; and I cut out the whole of the front of my cabin to admit the air.

When you say she first lay upon the deck, whereabouts did she lie? I think she lay aft, on the starboard side, in a small space between the cabin and the hatchway.

You stated, that you saw Pergami handing her royal highness down, did you see afterwards where he slept, where he was lying down? I do not think that he laid down at all; I do not recollect where he was afterwards; I only saw him handing down her royal highness, with, I think, Flinn and others assisting: Flinn was assisting her royal highness down, but where he went afterwards I have no recollection, I took no notice.

You have no recollection then of seeing Pergami after that any where? I have not.

Did you not see him lying down upon the deck after that? No, I do not recollect that I did.

Where did Pergami sleep on the return from Jaffa? I do not know where he slept.

Have you never seen him under the tent upon the bed? In the night-time?

By day or by night? I have seen him under the tent in the day, as every body else was there.

Have you seen him upon the bed? I have seen him sitting either upon a chair or upon that travelling bed.

You have stated that Pergami at first slept in the cabin which you have mentioned—that he afterwards slept in the dining-room; do you know where he slept on his way home from Jaffa? I never saw him sleeping any where after that, therefore I cannot declare where he slept.

You have stated that upon one occasion, not knowing that the tent was closed, you ascended the ladder to the tent? More than once.

Did not that ladder communicate to the dining-room? It did.

At what hour was it, or about what hour was it, upon any of those occasions, that you went into the dining-room and up the ladder? It might have been ten o'clock, or half past ten, before I went to bed.

Do you know who was under the tent at that time? Her royal highness the princess.

Any other person? I do not know, for I did not see any body.

Was it dark? It was dark.

Did you see the princess? I did not.

Did you see Pergami any where? I did not.

Did you not upon that occasion pass through the dining-room, in which Pergami had slept on the outward voyage? I passed through the dining-room.

In which Pergami had slept on the outward voyage? Yes.

Was there any light in the dining-room at that time? I do not recollect, I do not think there was.

Where did Demont and her sister sleep at that time? I do not know, I have not seen them in bed, but I imagine in their cabins.

After the princess slept on the deck, did not one or other of them occasionally sleep in the princess's room with the little Victorine? I believe they did by turns.

You have said, that you do not know where Pergami slept; upon your oath, do not you believe he slept under the tent? I have heard he did sleep under the tent.

I do not wish to know what you have heard? And I believe he did sleep under the tent.

Whilst you were on board the polacre, as you have no recollection of St. Bartholomew's day in the year 1815, was not St. Bartholomew's day celebrated on your arrival off Syracuse? We were at Syracuse.

Do you not believe that on the return from Jaffa, Pergami slept constantly under the tent? I have heard that he did sleep under the tent, and I believe he did sleep under the tent.

Without referring to what you have heard, do you not believe that he slept under the tent? I have already said so.

Believing that, do you think that degrading or not to her royal highness? No, I think it was necessary that somebody should sleep near her royal highness on deck on that occasion; I have heard that other people have slept there too.

You are not asked as to hearing what other people have done, but whether your belief that Pergami slept under the tent with her royal highness, was or was not a matter degrading to her royal highness's station? No, I do not think it was.

You were asked, whether on your arrival at Syracuse, St. Bartholomew's day was not celebrated on board the polacre? I recollect that the sailors had a fête on board, and drank, and sung, and danced.

Upon St. Bartholomew's day? I believe it was on St. Bartholomew's day.

Have you any doubt about it? No, I have none.

Then why do you say you believe? Because I believe it was so.

You say the sailors were regaled on that day? I do not know who paid or who regaled them; I know they were rejoicing in fact.

Do you mean to say you do not know who regaled them on that day? I do not know who regaled them on that day.

Who do you believe regaled them on that day? I suppose Pergami did.

Why do you believe that Pergami did? Because in those countries they always keep the day of their name instead of their birthday.

Was this day kept in honour of Pergami? They were rejoicing, and it was his saint's day; in fact, every body keeps that day in Italy.

Was there any other saint's day kept on board the polacre in the same manner? I do not remember that there was.

Was not the ship illuminated on this night at Syracuse? I do not recollect that.

Did not the sailors cry, "Viva St. Bartolomeo! Viva la Principessa! Viva il Cavaliere? They may have cried so, but I did not hear them; at least, it is not marked upon my memory that they did.

Do you mean to say, that you heard none of the exclamations of the crew, who were very gay upon the deck? I must have heard all their exclamations, but none of them have been marked upon my memory sufficiently to enable me to say what they were; it is very possible they may have said "Viva il Cavaliere."

Did you see Pergami and the princess on that day on board the polacre? We were in quarantine, and every body was on board; I must have seen them.

Where did you see them, on the deck? As usual.

Did you see them walking on the deck as usual? As usual.

In what manner were they walking when you say as usual, the princess and Pergami? I do not recollect to have seen them precisely that day walking more than another; but if they were walking, they were walking as they always did.

Arm in arm? They might have been walking arm in arm.

Was that their usual way of walking on the deck? Her royal highness could not walk on the deck without the arm of somebody.

They were in port on this occasion, were they not, in Syracuse? They were.

Could she not have walked therefore on the deck without the assistance of any other person? I do not say she was walking with the assistance of any other person; she may have walked alone, and she may have walked with his arm; I cannot recollect, the thing was not so remarkable as to make a note in my memory how she walked.

Was it so usual for her to walk arm in arm with Pergami, that it made no impression on your mind when you saw it?

Mr. *Brougham* objected to this question, as it assumed that to walk arm in arm was the usual practice of the princess and Pergami, and that this was admitted by the witness, which was not the fact. He should have no objection to the question, if put in a general way, without any assumption as to what was their usual way of walking.

The Witnes was directed to withdraw.

The *Attorney General* said, that he was not aware of any assumption. He meant merely to ask, if the witness saw the princess and Pergami walking arm in arm; whether, from the usual way of walking so, that would make any impression upon him?

Earl *Grey* said, the objection urged by the learned counsel, on the other side, would still apply to the form in which the attorney-general purposed to put the question; for this question assumed, that it was the usual practice of the princess and Pergami to walk arm in arm.

The *Attorney General* observed, that in cross-examination he was entitled to put leading questions.

The *Lord Chancellor* said, there could be no objection to the question, if put in another shape, and free from the words assumed to be in evidence. The question might be so varied in terms as to obviate any objection, and to convey the same meaning. Counsel might ask, whether it was so usual, that it would have made no impression upon the mind of the witness if he had seen it.

The Witness was again called in.

Was it so usual a thing for the princess to walk arm in arm with Pergami, that if she had done it in Syracuse, it would have made no impression upon your mind? It would not.

During this voyage and your journey to the East, were any additional orders conferred upon Pergami? I do not know whether you can call it an order, it was a thing her royal highness had spoken of for many months before she undertook the journey, saying she would make a little recompence to those who should accompany her on that pilgrimage, as a mark of distinction, as a memento rather.

The question was, whether any orders were conferred upon Pergami, in the course of that journey to the East? If that is an order, there was.

What was it? It was called the order of St. Caroline.

Was Pergami one of the knights of this order? Yes, he was.

The grand master? I believe he was, so it says in the diploma.

Was any other order conferred upon Pergami in the course of that journey, at Jerusalem? The order of St. Sepulchre, of the Holy Sepulchre.

Do you know whether that order was purchased for Pergami? I have not the slightest idea of the thing; I do not believe it was.

Were there any other persons on whom that order was conferred? There were count Schiavini and William Austin.

Is that a Catholic order? I believe it is.

Were you present when that order was conferred upon Pergami? I was.

And the princess? And the princess.

Where was it? It was in that called the Temple of Resurrection; the Cathedral, in fact, at Jerusalem.

In going to Jerusalem, did you repose under tents? We did.

By day? Yes, by day.

You travelled by night, and reposed by day? Yes.

How many tents were there, do you recollect? There might have been six or seven, more or less; I cannot say, but certainly more than four or five.

Who reposed in the tent with yourself? Mr. Flinn, in general, and the doctor I believe, and Schiavini.

Did you see the princess, when she alighted from her ass, retire to her tent? I have seen her throw herself on the sofa of her tent, on getting down from her mule or ass.

Do you know where Pergami reposed during the day? I do not.

Do not you believe that he reposed under the same tent with her royal highness? I do not know, I never saw him there.

Do not you believe that he did?

Mr. *Brougham* said, he did not interpose here for the purpose of objecting to the question, but merely that their lordships might make a note in their own minds, that he did not object to it, although he certainly had a right. He had not, however, the slightest objection to this question, and a thousand others to the same purpose; he was, on the contrary, only sorry that he had not put them himself.

The question was proposed.

He may or may not; I do not know.

What is your belief? I dare say he did; I do not know.

Do not you believe that he slept under the same tent with her royal highness? I can only say, as I have said, I do not know.

What do you believe? He may or may not, I cannot say, because I have no grounds for believing it.

Did you see him under any other tent reposing? No, I did not; I retired to my own tent directly I got off my horse, and there I slept, of course, till dinner-time; till it was time to go, when every body was in movement.

Do you know where Schiavini slept? I think he slept under the same tent as I did myself, as I have stated; but I will not be positive even as to that fact.

Do you know where Hieronimus and Camera slept? I do not; I have never seen them sleeping.

You have stated, that in the course of your journey in the east, you were at Ephesus? I did.

You remember the coffee-house, the Caffé Turque, at Ephesus? I do.

Do you remember where the princess dined, or do you not? The following day she dined

in the churchyard, under the porch of the church; the porch of an old mosque.

Can you recollect where you dined upon that day yourself? I feel thoroughly convinced that I dined there with her.

Will you swear that that day you dined with her royal highness? I will swear that is the impression upon my mind, that I dined with her royal highness.

Where did you land on your return from the voyage? At Capo d'Anza.

You have stated, that at the Barona her royal highness gave some entertainments, some dances, and you have mentioned the daughters of some persons who were there, who were they? I think they were the daughters of the agent of the farm; the farmer's daughters.

How many of them used to come to the ball? Three, or four, or five; I do not precisely recollect the number; it was a dance, not a ball, for the amusement of the household.

Do you know a person who kept a public house at the village on the Barona? No, I do not.

The St. Christopher? I do not.

Do you know a person of the name of Johana Ange? I do not.

Were there many persons there of low life? I do not know their situation in life; I recollect the farmer's daughters; but as to other people of low life, I have no recollection of any thing of the sort.

How often were those dances given at the Barona? Some four or five times, they may have been less.

You knew those daughters of the farmer? I did not know them, except from having seen them there; that is all the knowledge I had of them.

You have stated, that upon one occasion you were at Scharnitz? The barrier town of the Bavarian states.

Mr. *Brougham* submitted, that the witness must not be taken to have stated that he had been at Scharnitz, but at the barrier town between the Austrian Tyrol and Bavaria.

The following extract was read from the former Evidence:

"Was it on your way back from Carlsruhe that you were stopped at Scharnitz? If that is the name of the barrier town between the Austrian Tyrol and the kingdom of Bavaria, we were stopped once there.

"Do you remember the time of day when you got into this place? I think it was about the middle of the day.

"What occasioned your being stopped there? We were travelling in sledges in consequence of the depth of the snow, and the carriages were behind; the man at the barrier, not having a passport, would not take the word of the courier, or ourselves in fact, that it was the princess of Wales, and he stopped us from passing.

"Did that make it necessary for any person to go back to Inspruck? Mr. Pergami went back immediately to Inspruck, with captain Vassali, I think, to procure passports.

"Do you recollect atwhat time Pergami and captain Vassali returned back to Scharnitz? I should think it was about one or two o'clock in the morning, it was very late."

Were you ever at Scharnitz? I do not know whether that is the name of the town you allude to.

You recollect the circumstance of Pergami and Vassali going back for the passport from this barrier town? Perfectly.

There was a great deal of snow on the ground at that time? A great deal.

Had you a great deal of difficulty in getting on? A great deal.

Were they not obliged, when you set out from that town, to cut a way for you through the snow? They were.

There were many persons employed for that purpose, were there not? Some twenty, thirty, or forty, at different parts of the road; I do not mean to say in a body.

What time did you set out from that place in the morning? I think as soon as it was day-light.

What time in the year was it? I think in the month of March.

Was it not nearly eight o'clock before you set out from that town? I do not recollect as to the hour, I think it was at day-light we set out.

Was it broad day-light when you set out? I should imagine it was.

Do you remember whether in consequence of this delay about the passports, your baggage was stopped at the barrier? All was stopped, every thing was stopped, our baggage was on the carriages.

Was the baggage left at the barrier, or did it go on with you to the inn? The inn is within a few hundred yards of the barrier itself.

Can you recollect whether the baggage was stopped at the barrier, or went on to the inn? The barrier was beyond the inn, we had to return to the inn.

Then you returned to the inn, and staid there in consequence of this delay about the passports? Exactly so.

Do you remember whether the carriages were unloaded on that night or not? I have not a recollection of the thing at all; I know that I had not my baggage, I do not think they were.

You have been asked respecting a journey from Milan to Rome, by way of Ancona, and afterwards from Rome to Sinigaglia; how many carriages had her royal highness? I do not remember precisely the number, but I should thing three or four.

What sort of carriages were they? There was an English landau, an English landaulet, a little German carriage belonging to William (a calash) and another Roman calash, a carriage made at Rome.

Where did you sleep the first day on your journey from Rome to Sinigaglia? I do not recollect the name of the town.

Did you not stop at Atricola? I think that was the second day.

How far did you go that first day; you travelled by night, it being very hot weather? We travelled by night, and stopped in the heat of the day.

Do you remember where you stopped the second morning, was it not at Nocera? I think it was, because there are some mineral springs there.

Did you not stop some time at a place called Fano, the third day? I think we breakfasted there.

How long did you stay there; do you recollect? We might have stopped there an hour or two; but I cannot say as to the time, I do not think more than that.

How far is Fano from Sinigaglia? One or two posts; about ten miles, I should think.

At what time did you get to Sinigaglia? I think it was about one or two o'clock in the day.

Was it not later than that? I do not recollect, it may have been later.

Do not you remember that it was as late as five o'clock in the afternoon when you got to Sinigaglia? No, I do not; it is not marked sufficiently upon my memory, the arrival at Sinigaglia, to say whether it was two or five o'clock.

Can you therefore undertake to say, that it was not so late as five o'clock? I will not undertake to say any thing about it; it is not marked sufficiently for me to decide.

I have called your recollection to a place called Fano, at which you stopped; do not you recollect seeing Sacchi there? I do not.

Do not you recollect Sacchi being ill there for a short time? No, I do not recollect it.

Do not you remember seeing him in bed there for a short time, or his going to bed, in consequence of his having taken something cold, some iced lemonade, or something of that kind, on the road? I do not; I have not the smallest recollection of it.

Do you remember in what carriage the princess travelled on that journey from Rome to Sinigaglia? I think it was the landaulet.

Are you sure it was in the landaulet? I am not certain, but I think it was. She had travelled in that to Rome; in fact, she almost always travelled in that carriage.

It was very hot weather, and you travelled by night, to avoid the heat of the day? Precisely so.

Who travelled in the carriage with her royal highness? I rather think the countess Oldi and Pergami.

Who travelled in the carriage with yourself? As far as I recollect, it was the two chambermaids and the count Schiavini. I understand the question to allude to the journey from Rome to Sinigaglia; in going to Rome, I did not travel in that carriage.

Where did little Victorine travel? She was always with her royal highness.

Do you mean to say, that she travelled with her royal highness the whole way from Rome to Sinigaglia? I think she did; because I recollect a circumstance that she would not come into our carriage any more, from having been upset going in the journey from Inspruck to the Tyrol, and the child happened to be in our carriage, and after that she would not come with us; that has marked it in my memory.

Notwithstanding that circumstance, can you undertake to say, that Victorine was not occasionally in the carriage in which you travelled from Rome to Sinigaglia? I do not recollect her having been in that carriage.

Can you swear that she was not? I swear from my recollection as much as I can, I cannot positively swear she was not, for she might have been, but I do not recollect it.

Who travelled in the third carriage? I think it was William Austin and captain Vassali.

What sort of a carriage was that? A little German carriage belonging to William.

What carriage did you travel in? In the English landaulet, I think.

I have been speaking at present of the journey from Rome to Sinigaglia; I now wish to call your attention to the journey to Rome; do you remember, at Ancona, seeing Louis Pergami? Yes.

Did not Louis Pergami go with her royal highness and the suite from Ancona to Rome? I will not be certain as to that fact.

You remember seeing him at Ancona? Yes, because he came from Rome back to Ancona.

And met you at Ancona? And met us at Ancona.

Did not he afterwards go with the princess and her suite to Rome? That I do not recollect.

You are quite sure you saw him at Ancona? I feel persuaded that I did see him at Ancona.

Was there a fourth carriage from Rome to Sinigaglia, besides the three you have mentioned? I have mentioned four.

Who travelled in the fourth? I travelled in the fourth with a Roman captain Lancy, that was to Rome.

You have mentioned the persons who travelled in three of the carriages from Rome to Sinigaglia; do you know who travelled in the fourth, from Rome to Sinigaglia, whether Camera and Louis Pergami went in that fourth carriage? I do not recollect; I cannot say.

Did not Camera and Louis Pergami go from Rome to Sinigaglia in your company? Positively I do not know; Louis Pergami went, I think, during the time we were at Rome, once or twice to Milan, but whether he returned with us to Sinigaglia, I do not recollect.

Who went as couriers from Rome to Sinigaglia? I rather think Carlo and Sacchini; I do not know whether those were the two couriers on the journey to Rome, whether they both came with us or not I do not recollect.

Can you swear that you saw Carlo Forti on the road from Rome to Sinigaglia at any one time? I cannot swear that I saw either one or the other; I do not recollect; if there was any one marked point where I might have spoken to them I might have recollected it; but I do not recollect which of the two it was.

Do you remember at Foligno having a difficulty about post-horses, or at the stage after Foligno? No, I do not remember that.

Do not you remember that you were obliged to take the same post-horses you had at Foligno on another stage, in consequence of that difficulty? That happened so often, that I do not recollect it; at that time it happened very often.

Can you point out any place on that journey from Rome to Sinigaglia where that did happen? No, I cannot; I mean to say, in travelling that often happens.

Do you remember this happening in your way to Rome? No, I do not.

You say you do not remember seeing Carlo; do not you remember seeing Sacchi on that journey from Rome to Sinigaglia? I do not recollect; my memory is not marked by either one or the other; I do not know which it was.

Will you say that Sacchi did not ride by the side of the princess's carriage during that journey? Not having seen him, I cannot say.

How far were you from the princess's carriage on the journey? More or less; sometimes close, sometimes at a distance.

Will you swear that you did not see Sacchi in the course of your journey from Rome to Sinigaglia? I cannot swear to a thing I do not recollect.

Did you ever see Pergami's wife? No.

Do you know any other of Pergami's family besides Louis? Yes, there were more in the family.

Who were they? I do not know their names, but there was one called Raggioneto; I do not know what his name was; another was called Bernard.

Was not Bernard the Raggioneto? No.

Was it Francesco? I do not know whether his name was Francesco or not.

Do you know Faustina? Yes.

What relation is she to Pergami? His sister.

The countess Oldi you have mentioned? I have.

When did you first know that she was the sister of Pergami? I had heard of it shortly after she came to the house, but I did not know it positively for some time afterwards.

Did you hear of it or know of it at the time she came into the service of her royal highness? No, I did not.

Did you know Faustina's husband; have you ever seen him, Martini? Yes, I have seen him.

Where have you seen him? At the house of the princess, the Villa d'Este.

When was it that Louis Pergami began to dine at the table of her royal highness? I think it was some short time after our return from the voyage.

Did Faustina ever dine with her royal highness? I never saw her.

Were there any other of Pergami's relations in the family besides those you have mentioned; do you know Pietro his nephew? Yes.

Carlini? Yes.

Another nephew? I do not know whether he was a nephew or not.

Is he a relation of Pergami's? I have heard he is.

Do you believe he is? I believe so, from having heard so.

What situations are Pietro and Carlini in in her royal highness's service? Carlini was on the long voyage.

What situation was he in, a footman? I do not know what situation he was in; he was a servant.

In what situation was Pietro? I do not know whether I am speaking to the right person; Pietro, as I imagine, was in the stables.

After your return from the long voyage, did not the mother of Pergami begin to be called Madame Livia in the family? Not more so after than before, to my knowledge.

Had she ever dined at her royal highness's table before you set out on that voyage? I do not recollect; she may or she may not; it is not fixed upon my memory.

At Pesaro did not she regularly dine with her royal highness? She did.

And Louis? And Louis.

Did Bernardo ever dine at the table with her royal highness at the Barona? I do not recollect; I do not think he ever did.

Not at the Barona? I do not recollect having seen him.

Having seen those members of the family whom you have mentioned as dining with her royal highness at her table, did you ever see Pergami's wife, the baroness, there? Never; I have never seen her.

Neither at the Villa d'Este, at Pesaro, or the Barona? Neither the one or the other.

How far is the Barona from Milan? About two miles.

Are you to be understood to say, that although you have seen the mother and the brother of Pergami and his sister at the table, and those other members of the family in her royal highness's service, you never saw his wife at any of the places at which her royal highness resided? I have never seen his wife.

How long were you with her royal highness? Three years.

During that period, did she never come to see her child at her royal highness's house? I never saw her.

When you first joined her royal highness at Genoa, did you go there accidentally, or were you sent for by her royal highness? It was by her royal highness's command.

From England? From England.

Where do you reside at present? At No. 5, Bury Street, St. James's.

Have you not frequently been with her majesty at Brandenburgh House? I have.

Almost every day, or every day? Not almost every day, I have not been there since Saturday.

Before that, were you not there frequently? I have been only twice since my coming to England the last time, once to make my bow on arriving, and once I think on Saturday; I think those are the only times I have been at Brandenburgh House.

Did you see Schiavini there? I did.

Both times? Yes, both times.

How long have you been in England? I came last Friday week, I think it was Friday week.

Were you in England before? I have been twice in England.

How long before that? About a week; I was ten days at home at Rouen.

How long were you in England before you returned for those ten days? I think about five weeks.

Re-examined by Mr. *Tindal.*

You were asked, whether Faustina the sister of Pergami, was in the family of her royal highness, and you were afterwards asked, whether she was in the house of her royal highness at Genoa; you were understood to say, you did not know she was in the family, and afterwards that she was in the house; explain what you meant by that distinction? I meant to say, that I knew she was in the house at Genoa, but I never imagined she belonged to the household.

You stated, that her royal highness at the Villa d'Este joined in certain games you mentioned, did the whole of her household join in them, or only the upper attendants? Only the upper attendants; the footmen never attempted to join in the amusements; the pages, Hieronimus, the chamber-maids, and any friends that might have been at the house.

You stated, that certain plays were performed at the Villa d'Este? Yes.

How many years ago is it since those spectacles took place? I think it was on the return from the long voyage in the winter of 1816.

Have you any better recollection of the incidents or plot of those entertainments than that which you have stated? None in the least, but common amusement.

Do you remember, when you were at Tuujs, a doctor being taken on board? I do.

Was it before or after that time that Pergami's sleeping place was altered? After that time; the doctor occupied the cabin, not exactly the cabin that Pergami had occupied, but there were three persons shifted, I think the count Schiavini came further aft, William Austin came next to him, and the doctor took the cabin between.

After that alteration was made, where was Pergami's bed placed? In the dining-room, within a screen.

You stated, that on the occasion of the accident you described, when the princess came below, you did not know where Pergami went, did he or not go into the cabin which the princess went into? There could not have been room; I do not recollect that he went into the cabin, but he could not have gone into the cabin without sleeping upon the ground, besides, the whole of the front of the cabin was cut out, I cut it out myself, as low down as about three feet.

Of what was the front of the cabin composed, of what materials? Of canvas and plank.

You have stated in answer to a question, that you believed Pergami slept under the tent, what is the ground of that belief? Because in the time of the squall on the coast of Caramania, which made her royal highness come down below, Pergami told me the sea came into the tent, consequently he must have been there, or he could not have known it.

Have you a distinct recollection as to the dress of Pergami on that occasion? No, I have not.

The question is not how he was dressed, but whether he was dressed or not? Oh, he was dressed.

Do you believe he was dressed every night when he was under the tent?

The *Solicitor General* was astonished to hear such a question from his learned friend. He was astonished to hear him say, "Do you believe he was dressed?" to his own witness; and apprehended the question could not be put.

Mr. *Tindal* was no less astonished at the objection of the Solicitor-General.

The *Lord Chancellor* thought that, under the circumstances of the case, the question could not be put.

Of what nation were the crew of the polacre composed? Of Neapolitans and Sicilians.

You have stated that half the crew were upon the deck during the night? Yes.

You stated, in an answer, that you thought it necessary that some person besides the princess should sleep under the tent, what was the ground of that necessity? It was never mentioned to me, but I have never considered it otherwise than necessary, the princess sleeping on deck by herself would not at all have been right.

Were you acquainted with the characters of

the different sailors who were employed on board that polacre, before you sailed? Not at all, I had never seen a single man of them before.

Do you know whether her royal highness had seen them? Certainly not; the vessel was hired at Messina, while she was at Cattania.

You have stated, that you have seen the princess walking arm in arm with Pergami, have you ever seen her walking in the same manner with others of her household? Yes, she has walked with me; I have seen her with Schiavini, and other gentlemen who have come to visit her at the Villa d'Este, and so forth.

You have stated, that Pergami was made grand master of the order of St. Caroline, do you know who were appointed as the knights of that order? I was one myself; Mr. Flinn was one; and William Austin, and Hieronimus, and I think Camera, I think doctor Mocatti was one also, in consequence of his coming as far as Naples to join her royal highness for the voyage, but not being able to come then, by not getting his passport in time from the Austrian government.

Was he made an actual knight or an honorary knight of the order? I do not know; it was only in consideration of his being appointed to accompany her royal highness upon the voyage, and not being able, from an obstacle which was thrown in the way by the government under which he lived; I am not quite sure even that he is.

Were the persons whom you have mentioned, exclusive of the doctor, the whole of the persons who arrived at Syracuse with her royal highness? The knights, that is the whole; I have never heard of any body else except the doctor whom we took with us; I am not quite sure whether he was or not.

Was this order, such as it was, conferred on all the suite who arrived at Jerusalem? No, only on the persons I have mentioned.

Mr. *Tindal* requested leave to put one question that he ought to have put on the examination in chief.

The Counsel was informed that he might do so, the Counsel in support of the Bill being at liberty to cross-examine upon it.

Was there any English sailor on board the polacre? There was, as far as Athens.

What became of him? He went home from that place.

Have you ever seen him since? Never.

Have you ever been examined by any person upon the subject of your evidence?

The *Attorney General* would be glad to learn how that question could possibly apply, in a re-examination? It did not apply.

Mr. *Brougham* contended, that it did apply, and very minutely. The object of it might be to know whether the witness had ever been to Brandenburgh House, for instance, or elsewhere: and what had occurred relative to this matter on that occasion; whether he had been once or twice, or how often, or not at all. The question did apply, and very minutely.

The Counsel were informed, that in the opinion of the House, the question might be asked.

Has any application been made to you for information upon this subject, on the part of his majesty's government? I was ordered to attend the Admiralty, where I was asked where I had seen James last, and if I knew where he was; except that, none that I recollect.

Lord Chancellor.—Was that person the sailor that was on board the ship? Yes, he was.

Examined by the *Lords*.

Earl of *Rosebery*.—You have stated, that you sometimes saw the princess at breakfast at Genoa, did you see her royal highness frequently at breakfast? Only once is impressed upon my memory.

You did not see Pergami at breakfast with her royal highness at that time? Pergami was in the room, but he appeared to me to be waiting.

He was not sitting down? No, certainly not.

Was there any other servant in the room with her royal highness at that time? I do not recollect that there was.

Directing your attention to the tent on the journey from St. Jean d'Acre to Jerusalem, was there an outer and an inner tent, one tent placed within another? It was a double tent, there was a gallery round the inside of it.

Do you recollect whether any body lay down within that gallery? I have never seen them lying down, I have seen in that gallery a mattress for somebody to lie upon; I have seen the servants behind there; I have seen the mattress, but I do not know that they slept there, because I was never in the tent at that time.

In point of fact, you do not know whether any body slept there or not? I do not.

Referring to the tent on board the polacre, do you know whether any person could open the tent from the deck, after it was closed at night? I should think, certainly, by pulling the two parts aside it was very easy.

Do you know whether it was fastened inside at that part where it could be separated in that manner? No, I do not.

When you ascended the ladder to go into the tent through the dining-room, which you state you did on more than one occasion, did her royal highness speak to you? No; I merely ran up the ladder, and finding my mistake, of course I went down immedi-

ately; I hardly got my head up to the combings of the hatchway before I discovered that the tent was closed, and that her royal highness had retired; of course I went down directly.

You are understood to have stated, that that was after the light had been put out? Yes, the light must have been out then, it was dark.

Your only knowledge of the princess being there was from the fact of the tent being closed? Exactly.

Do you know that any other person slept under the tent besides Pergami and the princess during that voyage? I do not know but from having heard that others slept there; I do not know; I never even saw her royal highness sleep there; I never was in the tent at the time.

The following Extract was read from the former Evidence:

"Do you not believe, that on the return from Jaffa, Pergami slept constantly under the tent? I have heard that he did sleep under the tent, and I believe he did sleep under the tent.

"Without referring to what you have heard, do you not believe that he slept under the tent? I have already said so.

"Believing that, do you think that degrading or not, to her royal highness? No, I think it was necessary that somebody should sleep near her royal highness on deck on that occasion; I have heard that other people have slept there too."

Do you know that any other person besides those two ever slept there during that time? I do not know it, but by having heard it.

In the journey from Rome to Sinigaglia, you have stated you have no decisive recollection which of the couriers accompanied the princess, that you have nothing to mark it in your memory? No, I have not.

Do you remember either of those couriers going before the princess on that journey in a carriage? I have a slight recollection of it, but I do not positively recall it; I believe one of them did, but I have no positive recollection as to the fact.

The circumstance being recalled to your recollection, can you state your belief which of the two it was? I do not recollect, if I should believe either, it would be Sacchini.

But you cannot be positive? I cannot be positive.

Earl *Grey*.—When you stated that you thought it necessary some persons should sleep near her royal highness on deck, did you mean that you thought it necessary some male attendant should sleep near her royal highness? I meant that.

Under the circumstances in which you believe Pergami to have slept under the tent on deck, did it convey to your mind any suspicion of an improper connexion between him and her royal highness? No, it did not.

Earl of *Liverpool*.—Do you know where captain Flinn slept, on the voyage from Jaffa to Capo d'Anza? He slept in his cabin, and I recollect some nights his having hung his cot upon deck.

Do you know, or not, that during the whole voyage, or the greater part of the voyage, from Jaffa homewards, captain Flinn hung his cot upon deck? I have frequently seen his cot there, I do not know how many nights he slept there.

Did you not act as the private secretary to her royal highness? I did.

Do you know any thing relative to the purchase of the Barona, and of its being assigned to Pergami?

Mr. *Denman* submitted, with great deference, that the question ought not to be put: He did not mean to object to the question itself, which was perfectly proper under other circumstances, but as the witness, from his situation as private secretary to her majesty might be in possession of confidential communications, and might know something respecting the written instruments between the buyer and seller which he ought not to be called upon to disclose, it would be better, as he conceived, to defer the question.

The Witness was directed to withdraw.

The Earl of *Liverpool* said, that he only wanted to know the fact whether the princess had bought the estate, and given it to Pergami.

The *Lord Chancellor* observed, that the witness might be asked whether an estate was purchased and conveyed, and if he stated that it was conveyed by writings, that the examination must there stop.

The Witness was again called in.

Earl of *Liverpool*.—Do you know whether Pergami is in possession of the Barona? No, I do not, at this present moment.

Do you know whether he has ever been? I believe it was his; I do not know, but I believe it was.

Was not the name changed to the Villa Pergami; was it not called the Villa Pergami? I think it was.

Marquis of *Lansdown*.—Do you know where the countess Oldi and Victorine slept on the journey to Jerusalem? I think the countess Oldi had a tent of her own, but I do not know whether she slept there or not; or whether she slept under one of the tents with the chambermaids who were there, I do not know.

Or Victorine? Or Victorine: I have never seen them sleeping, therefore I do not know.

When you state, that her royal highness and Pergami may have been walking arm in arm upon the deck of the Polacre, do you mean that her royal highness may have been leaning upon the arm of Pergami? Yes.

Did her royal highness, during the time

that she was on board the Polacre, ever lean upon your arm in the same manner? It is very possible, I do not recollect the point marked, but her royal highness has walked arm in arm with me very often.

During the period of your residence in Italy, have you ever seen any entertainment, either at the house of her royal highness or at any other place, in which the characters of Harlequin and Columbine were sustained in the same manner that they usually are in this country, in what is called a harlequin farce? All I have seen is, I have seen Louis Pergami in a Harlequin's dress, and more than once I have seen him.

Can you state whether you have ever seen the part of Harlequin sustained in Italy in the same manner that it is in England? I do not think I ever did.

Earl of *Limerick*.—Upon those occasions, when you state that you believe Pergami slept under that tent, have you any reason to think that any third person, male or female, slept under that tent? I do not know.

Will you swear you never saw Pergami kiss her royal highness? I will swear I never saw Pergami kiss her royal highness.

You are understood to say, in a late part of your examination, that you thought it necessary that a person should sleep under the tent; what did you conceive that necessity to arise from? I never represented the necessity myself; but upon the occasion of thinking of it, I must confess that I think it was necessary for some person to be near her royal highness; a woman alone upon a ship's deck at sea, I should think perfectly authorized in having some person near her.

Would not that necessity have been equally met by any of her numerous suite having either their hammocks slung upon deck, or some person mounting guard outside the tent, instead of sleeping in a covered tent, in the dark? The thing never suggested itself to me before; but the suite was not so numerous as to admit of one person being always on watch round her tent; there could have been only captain Flinn and myself, as to count Schiavini, you could not expect from him, a man who had never put his foot on a ship's deck before, to keep such a watch upon deck.

Could not a hammock have been slung equally well for any such person, as it was slung for lieutenant Flinn, who usually did sleep on the deck? A hammock might have been slung there, but the act of Flinn's bringing his cot on deck was merely to have the cool air, to be more comfortable.

Would it have been a severe hardship on that English sailor to whom you have referred? He was not on board.

Would it not have equally answered the purpose to meet that necessity you have stated, if a female had been placed in that tent instead of a male person, or besides the male person the tent being fully equal to the containing three persons? I cannot say as to that, there might have been fifty other ways, as to that matter; we might have all of us slept round the tent outside as well as one.

Was there ever any order given to the officer of the watch to watch especially over the person of her royal highness? No, I do not recollect it; the officer of the watch was the mate of the vessel.

Were any suspicions entertained by you of the crew, or any part of the crew? None.

Then it was not from any apprehensions of the crew, you conceived it necessary that a man, a male, should sleep under the tent upon the deck with the princess of Wales? When I saw the thing, I looked upon it in that way.

In what way? That it was not at all improper that he should have slept there, her royal highness being on deck by herself.

Are you to be understood to say distinctly, that you do not conceive there is any impropriety in a male person sleeping in the same tent, the lights being out, with a female? From the manner that the hatchway was open, and all the doors below, there was no mystery in it whatever.

As you are a married man, would you have any objection, or conceive it improper that Mrs. Hownam should so sleep in a tent in the dark with a male person? I trust that every man looks upon his wife without making any comparison or exception; I never made the comparison.

You cannot form an opinion upon it? I cannot form an opinion.

The Earl of Limerick was about to put another question, in his preface to which he used the word comparison, when

Mr. *Brougham* objected to the use made of the word. He observed, that if it was taken down in the Minutes, it might give a meaning to the former answer of the witness, different from that which he certainly intended. The inference might be, that he wished no comparison to be made between Mrs. Hownam and the illustrious person, and such an inference would be untrue.

The Earl of *Limerick* said, he had made no comparison, He did not wish either to hurt the feelings of the witness, or to have any thing put in the Minutes that ought not to appear.

Do you say that you see no impropriety, situated as the tent was, open towards the deck below, in a male and a female sleeping so placed in such a tent? I do not conceive there was any impropriety in the thing, because I must have felt it, and I did not feel it; I have seen so many situations that her royal highness has been placed in, in the course of her travels, that I do not look upon it as improper.

What do you mean by saying, you have seen so many situations, in the course of her royal highness's travels, that you do not

think it improper? At Ephesus the princess of Wales lay under a sorry shed, that you would hardly put a cow into in this country, in the midst of horses, mules, Jews, Turks—all I can say is, that the idea did not strike me as improper.

You recollected that Louis Pergami was dressed as a Harlequin, you do not recollect, it seems, the dress or character of the princess of Wales; did you see Louis Pergami and the princess dance, in any part of those representations, together? I have seen Louis Pergami frequently dressed as a Harlequin, and it was that which impressed upon my memory that he was dressed as a Harlequin; that evening we all danced together, and I was dressed as a Greek.

As in this piece of Harlequin and Columbine the principal part most probably was not omitted, who did play Columbine? I do not recollect; if I did recollect that the princess played Columbine, I would state it.

Your recollection served you as to another of these farces, in which you state the princess played the part of an Automaton, is that correct? Yes.

You were understood to say, that, part of the farce consisted in the representation of the selling of this Automaton, and, of course, the buying of her? It was the plot of the history that has marked it upon my memory.

What did the Automaton do; was she sitting, standing, lying, running, or what? I think in a box standing up.

Do you conceive, that these acts, so stated by you, are consonant to the high dignity of the royal personage about whom we have been speaking? I do not consider it in the least derogatory to her royal highness's rank, knowing the pleasure she takes in that sort of entertainment.

The Counsel were directed to withdraw, and the House adjourned.

HOUSE OF LORDS.

Thursday, October 12.

The order of the day being read for the further consideration and second reading of the Bill, intituled, "An Act "to deprive her Majesty, &c." and for hearing Counsel for and against the same,

The Earl of *Blesington* begged to take that opportunity of remarking, that a complaint had gone forth, that the rapid manner in which questions were put one after another to the witnesses, was calculated to produce confusion, and to induce a witness to commit inaccuracy, from the necessity of answering as quick as the questions were put. He therefore suggested, for the purpose of obviating any possible inconvenience of this kind, that the short-hand writer should be directed to read over each question and the answer given to it, before another question was put to a witness.

The *Lord Chancellor* requested, that Mr. Gurney would have the goodness to read over each question and the answer when it was given, before another question was put.

The Earl of *Lauderdale* would say nothing which could be construed into a desire to have a different direction given than that pointed out by the learned lord on the woolsack; but still he must say, that if the short-hand writer were ordered to pursue this course, it would have the certain tendency to destroy the main effect of cross-examination.

Earl *Grey* quite agreed with the noble earl, that it would impair the effect of cross-examination; but still, if witnesses were unable to speak so audibly as that the House could hear them, what else was to be done? Unless the short-hand-writer were to read the answers, he, for one, must say that he would lose nine answers out of ten. The witnesses must be heard, and it was better their answers should be repeated by the short-hand-writer, than remain unknown to many of their lordships.

Counsel were called in.

Then Lieutenant *Joseph Robert Hownam* was again called in, and farther examined by their lordships as follows:

Lord *Erskine* observed, that he did not find it necessary now to put the questions to this witness that he intended yesterday; in fact, they had been answered in the course of yesterday, when put by others in a different form.

Lord *Walsingham*.—Do you know where it was that the princess took her bath on board the polacre, what cabin, or where? I never saw her royal highness take a bath on board, consequently I cannot tell.

Earl of *Carnarvon*.—You have stated, that you were with her royal highness at Trieste, can you speak from your own knowledge, whether after the time you joined her royal highness in Italy, she ever was at Trieste, except upon the occasion you have referred to? Never.

Lord *Kingston*.—Were you in the princess's service before Pergami? I was not.

You never served her before? I never served before in her service.

Do you know the reason that Pergami was selected to be in her royal highness's tent in preference to yourself or Mr. Flinn? I do not.

Is it customary for a sentinel to sleep on his watch? It certainly is not customary for a sentinel to sleep on his watch.

On board of what ship have you served? I served in many ships.

Be good enough to name them, and the captains? I have served in the Africaine, captain Manby; in the Lively, captain Hammond; in the Centaur, sir Samuel Hood; in the Barfleur, captain M'Cloud; in the Lavinia, lord William Stuart; in the Resistance, captain Adam, captain Rosenhagen and captain Pellew; in the Undaunted, captain Usher; I think those are all the vessels I have served in.

How many years have you served? Since the early part of 1803.

Earl of *Darnley*.—You are understood to have said, in answer to a question put in the latter part of your examination, that there was no mystery or concealment whatever in Pergami's sleeping underneath the same tent with her royal highness on board the polacre; on other occasions, when Pergami may have slept near her royal highness during that journey, was there any mystery or concealment of any kind? None whatever.

What is your opinion of Pergami, as the servant of her royal highness? I must here confess, that he was excessively attentive, and most ready in his duty.

Was he among the servants of her royal highness more likely to be selected, on account of his fidelity and attachment, than any other to guard her royal highness? I should think, from the way I have seen the marquis Ghisiliari and other persons conduct themselves towards him, that it would authorise that.

No suspicion was ever entertained in your mind, in consequence of the circumstance you have mentioned? None.

You have been asked relative to Mrs. Hownam, to which you declined giving any reply, have the goodness to state about the age of Mrs. Hownam? About thirty.

Have you always lived together as man and wife ought to do?—

On this question being put, there was a loud cry of "Order! order!"

The Earl of *Lauderdale*.—I will just ask your lordships how this can be evidence?

The *Lord Chancellor* could not conceive how the question could apply in any way to the inquiry before their lordships.

You are well acquainted with lieutenant Flinn? Yes, I am.

You believe him to be a man of honour?

Mr. Attorney General submitted an objection to the question.

The Counsel were informed, that the only question that could be put upon that subject was, "Is lieutenant Flinn a man to be believed upon his oath?"

Do you believe lieutenant Flinn a man to be believed upon his oath? I believe lieutenant Flinn to be a perfect man of honour.

I wish to know, but I do not desire to press the question, whether, from the knowledge he has of lieutenant Flinn, he believes his understanding to be at all times perfectly clear? I am not vain enough to give an opinion on the understanding of a man of my own age.

The *Lord Chancellor* objected to the question; and it and the answer were struck out of the Minutes.

Lord *De Dunstanville*.—What was the distance from the steerage to the tent? They are upon separate decks, the steerage of the vessel is underneath.

From the helm? I should think four, or five, or six feet, five feet probably.

You have said, that sometimes during the voyage from Jaffa, lieutenant Flinn slept on deck, do you not think when lieutenant Flinn slept there, her royal highness was sufficiently protected? His sleeping there was a thing that was not constant.

When he did sleep on deck, was her royal highness sufficiently protected? I should think she was sufficiently protected.

If lieutenant Flinn had slept upon deck during the whole voyage from Jaffa to Syracuse, would it have been necessary that any one should sleep in the tent with her royal highness for her protection? There may have been many reasons; the ship rolling very heavy—an accident might have happened in the tent, and twenty things—a sea breaking on board.

Is that to be understood to be an answer to the question? Yes.

You have said that at night you sometimes went up the ladder from the dining-cabin to the tent, but that finding the princess had retired for the night, you withdrew; how do you reconcile this proceeding with your opinion that there was nothing indecent in Pergami passing the night in the tent with her royal highness? I withdrew, from the impossibility of getting on deck, as the tent came close round to the combings of the hatchway, all round on the side on which the ladder was placed.

You stated that there was no light in the dining-room? I think not.

What was the occasion of your going into the dining-room, and from thence into the tent? From the habit of going up there all day; I did not know that the tent was closed; it was not absolutely in the night; ten o'clock, I think I said—towards the evening.

At what period of the year was this? We left Jaffa I think on the 17th July, and we arrived at Syracuse, I think, on the 20th of August.

Do you mean to say, that at that period of the year, it was not dark at 10 o'clock? It was night-time, it was dark; it was as dark as it is at such an hour in such a climate.

When you went up the ladder, at ten o'clock, did you not know that the tent was closed? I did not.

Earl *Grosvenor.*—Have you any reason to believe, that after the violent attack made on her royal highness's house at Genoa, or from any circumstance preceding your calling out baron Ompteda, or from any other circumstances at that time, her royal highness entertained any particular apprehensions with regard to her personal safety? She did, because she has mentioned it to me.

Did she, in consequence of such apprehensions, express to you a wish at that time to be more closely attended by the male part of her establishment? I have heard her frequently mention this affair, saying, she would have somebody always near her; I cannot recollect the precise words it was mentioned in.

Near her in consequence of those apprehensions? It was from those apprehensions she had previously mentioned.

Lord *Combermere.*—You have stated, that, on account of the rolling of the ship, as well as for the protection of her royal highness, it was necessary to have somebody in the tent with her; would not yourself or Mr. Flinn, or any seafaring person, have answered that purpose better than a landsman, if it was on account of the rolling of the ship? I should imagine if that was the only cause, certainly a seafaring man would be most capable of rendering assistance.

Could not he have answered both purposes, have protected her royal highness, and have assisted her in the event of the rolling of the ship? I trust he could.

Marquis of *Downshire.*—Did any facts to your knowledge occur at the princess's residence, that occasioned the quarrel between you and baron Ompteda? By the confession of a servant; I saw the servant on his knees begging pardon for his crime.

Mr. Attorney General submitted, that the words, "By the confession of a servant," could not stand on the Minutes.

The Counsel were informed, that each lord in the House would of course be aware that the witness having stated, that he knew it only by the confession of a servant, it must be taken that he did not know it at all.

Before whom was that servant kneeling, and what was the name of that servant? Before the princess of Wales, his name was Maurice Credi.

The Witness was directed to withdraw.

The Earl of *Lauderdale* was of opinion this could not with propriety be received as evidence. He requested, that the two last questions and answers might be read over, which was accordingly done. His lordship then submitted, that the statement that the witness had seen the servant kneeling to make a confession ought not to stand on the Minutes.

Earl *Grey* would agree with his noble friend, that the answer referred to could not be received as evidence, if it went to state facts that had come to the knowledge of the witness from the confession of the servant. But unless his ears deceived him more than they had ever done in the course of his life, not one circumstance had been described; all that had been stated was, that the witness had seen a servant kneeling to make a confession, and that the name of that servant was Maurice Credi. What he had said certainly could not be stated, but nothing of this had been conveyed to their lordships' minds in the answer which had been objected to.

The Earl of *Lauderdale* said, it was perfectly true, that nothing of what had been confessed by the servant had been conveyed to the mind, by the answer alone; but coupled with the question, it was clear that certain circumstances had been brought to the knowledge of the witness by the confession of the servant. A hundred such answers would give the House no information of facts known by the witness of his own knowledge. It was on the question and answer conjoined, that he founded his objection.

Earl *Grey* thought, that on this, as well as on many other occasions, much time was unnecessarily lost. If the answer complained of, stated what had been confessed by the servant, the objection would be a good one; but he could see no objection to that answer remaining on the Minutes, which merely stated what the witness knew, of his own knowledge, that he had seen a servant kneeling before her royal highness, and that the name of that servant was Maurice Credi.

Lord *Holland* complained of an objection being stated, not only after a question had been answered, but after another and another after that had been disposed of, and regularly taken down by the short-hand writer. Why did not his noble friend rise in the first instance, to move, that the first of the questions should be struck out? He thought it would save much time if it were made a rule that no question should be objected to but at the time of its being put; and that after another question had been asked, they ought not to go back to take into their consideration what had previously been put on their Minutes; for if they did so, there was no saying how far they might go back. Such inquiries would be interminable, and must add still more to that intolerable loss of time, which was already the subject of just complaint.

The *Lord Chancellor* said, it was undoubtedly important, that objections to questions should be offered as soon as possible; but it might so happen, that a final answer might be of so objectionable a nature as to render it necessary to expunge from the Minutes the questions and answers that led to it. The witness was asked, Did he know of any acts or circumstances that caused a particular result? and he answered, That he had derived his knowledge from the confession of a servant. The fair interpretation of this was, that the witness was present at a statement made by that servant to another person; but whether this confession had one word of truth in it was not proved. The declaration of the witness might, therefore, under these circumstances, be considered as a direct assertion, that, in fact, he knew nothing of those circumstances. The name of the servant was required; and it was stated: if, therefore, he was not present to speak to the facts, the whole must fall to the ground.

The Marquis of *Buckingham* said, it did not appear to him that the question and answer ought to stand; for that could not be received as evidence which had nothing to do with the case, but which related merely to a private quarrel between the witness and baron Ompteda. He was so far from thinking this ought to be received as evidence, that he was of opinion the whole ought to be expunged.

The Earl of *Carnarvon* thought it important, to inquire into the circumstances connected with the quarrel between the witness and the baron Ompteda, as the evidence given on these points would go to affect materially the testimony of a most important witness, Theodore Majoochi. He did not know why their lordships should be precluded from any allusion to those circumstances. He did not see that if the question were put—"Did you see any, and what servant kneeling before her royal highness?"—there could be any possible objection to its being answered.

The Witness was again called in.

Marquis of *Downshire*.—With whom did this person, Maurice Credi, live; whose servant was he? He was the servant of her royal highness the princess of Wales.

The next question I wish to ask, is one which I would submit to the House, to know whether it is a proper question to be asked or not. The question is, whether it was in consequence of what that man Credi said to her royal highness, that the witness called baron Ompteda out?

The Witness was directed to withdraw.

The Earl of *Lauderdale* caused the last question to be read. He then objected to it, as referring to a matter not connected with the case.

The *Lord Chancellor* said, he was sure that the cause which induced this gentleman to call out baron Ompteda had nothing to do with the issue their lordships had to try.

The Marquis of *Downshire* was of opinion that he had a right to put the question.

The *Lord Chancellor*.—Of course the noble marquis will not suppose that I would have the presumption to say, that he has no right to put any particular question; but I should not do my duty in this House if I did not declare, plainly and directly, that I think the question cannot legally be put.

The Earl of *Liverpool* was aware that their lordships were not shackled by the ordinary rules of evidence; but he believed there was scarcely a case in modern times, in the progress of which the peers had not imposed that restriction on themselves; and in this instance, the practice had been followed to the present moment. Now, he would throw it out for the consideration of their lordships, what a sea of difficulties they would have to encounter, if, having adopted that course, they should suddenly abandon it, and claim the right of putting any sort of questions they pleased.

Earl *Grey* thought their lordships ought to confine themselves as much as possible to the rules of law that prevailed in the Courts below; and, having so long adopted that principle, he conceived it would not be right to depart from it, except on some very important occasion. He did not understand that his noble friend was going to press this question, which, under the circumstances of the case, could not, in his opinion, be put. To make it a legal question, the case of baron Ompteda must be connected with that into which they were authorised to inquire.

The Marquis of *Downshire* was willing to withdraw the question, which he had put, because it had not been asked by any other peer. He still wished, however, to elicit the fact by some other means.

The Witness was again called in.

Marquis of *Downshire*,—Do you know

where Maurice Credi now lives? I do not know but from hearsay.

Do you know where Maurice Credi now lives? I have heard that he is in England.

With whom? I do not know with whom; I have not heard with whom.

Did Majoochi ever mention Ompteda's name to you? I recollect perfectly, at Rome, mentioning to Majoochi the commands of her royal highness, that the servants should not, on meeting baron Ompteda, molest him, or offer him any insult. I never had any conversation with the lower servants of the house on such a subject, consequently he never could have mentioned it to me.

Majoochi never mentioned Ompteda's name to you? I do not recollect it; I do not know that he did.

Earl of *Rosebery*.—When you saw this man upon his knees to her royal highness, did you hear her make any reply to his question of asking forgiveness? She forgave him.

Do you recollect the words? I cannot recollect the words.

Viscount *Falmouth*.—You have stated, that you have seen her royal highness walking arm in arm with Pergami at the Villa d'Este, was she then with Pergami only? Walking arm in arm in the garden.

Was there any body else in company? I do not remember any one particular time to have seen them alone in the garden walking arm in arm.

Are you positive you have never seen them so walking whilst Pergami was courier? I do not recollect having ever seen them so walking while Pergami was courier.

You are not positive you have not seen them so walking together while Pergami was courier? I never recollect to have seen them so walking while Pergami was courier.

Lord *Hood*.—Did the baron Ompteda dine at the princess's table at Milan? I think he did.

Did he at Como? He did.

Did he at the Villa Villani? He did.

Did Majoochi wait at the princess's table at those places? He did.

Duke of *Athol*.—You have said, that you considered it necessary, in the situation of the princess of Wales on board the polacre, that a male attendant should sleep near her; did you ever express that sentiment to the princess of Wales herself? I never did.

In the reasons which you have assigned for not considering it a degradation in the princess of Wales to sleep under the tent with Pergami, you have said, that there was no mystery in the case, and that the hatchways were open; you have since said, that in an attempt one night to go up the hatchway, you found the tent closed; do you consider that there was no mystery in that? The tent being closed, her royal highness had retired to rest; I did not consider that there was any mystery whatever in that.

Was Pergami in the tent at that period? I did not see him; I do not know; I cannot say.

Do you know that he was not in the tent? I do not know that he was not in the tent.

You have already said, that you have heard and believed Pergami slept in that tent; have you any reason to believe that he was not in the tent at that period when the tent was closed? I never thought about it, I did not think of it.

You have before said, that you never represented to her royal highness the princess of Wales that it was necessary for a male domestic to sleep near her upon the deck, you consequently could not be the recommender of the measure; when you considered it necessary for a male domestic to sleep near the princess of Wales in the tent, did you consider that it was necessary for a male domestic to sleep within the tent? I never represented the one nor the other.

You have said, that you thought it necessary for a male domestic to sleep near her royal highness; did you think it necessary that a male domestic should sleep within the tent? I never thought of the thing at all; and, probably, had there been nobody under the tent, I should have taken as little notice of it, as I did when there was somebody under the tent; when I heard it, I supposed it was necessary; I thought it was necessary within myself.

Was it for the princess's safety you thought it necessary a male domestic should sleep near her? Her royal highness thought so, and I did not think otherwise.

You have already stated, that in your opinion it was necessary, but that opinion you did not communicate to her royal highness the princess of Wales; but in your last answer it appears as if the princess of Wales did communicate it to you; did the princess of Wales in fact communicate it to you? She did not; not on that occasion; except after the business of Genoa, after the general remark that she had always made; not, with the exception of that.

What was the danger to be apprehended on board the polacre? I do not know any immediate danger.

Was there any danger? I do not know any immediate danger, not personal danger; if I had thought that, I should not have been easy myself to have slept below.

Was there any danger sufficient to have induced you at any time to recommend a male attendant sleeping within the tent? I never did recommend it.

Lord *Grantham*.—You have said, that at Carlsruhe the princess dined with the grand duke, except one day that she dined with the Margravine; did you dine in company with her royal highness on those occasions? I did.

You have said also, that she supped at the grand duke's, and also at the Margravine's, did you sup in company with her? Yes, I did.

At what o'clock at that court is the dinner? I positively cannot recollect that.

About what hour? I do not recollect the hour sufficiently to be able to mark it.

Have you any recollection of the lateness of the hour of supper and the evening parties there? I cannot say to what hour they lasted; they lasted late in the night, probably twelve o'clock.

Can you of your own knowledge, say, whether the princess had time to return home between dinner and supper, between the dinner and the subsequently going to the other house, or supping at the same house? I should imagine yes.

Did she, to your knowledge, on any one of those days, return home between the dinner and the supper? I do not recollect that.

Will you undertake to say, that she did not? I will undertake to say, that I do not recollect the circumstance; if I had the smallest recollection of it, I have no end in keeping it back, in withholding it.

Earl of *Darlington*.—Your attention is directed to the time when Pergami, Camera, and Teodoro, took leave of her royal highness on disembarking at Terracina; you mentioned that they, each of them, kissed her hand; do you know that Pergami had not taken leave of her royal highness before coming on deck? I do not know that he had; I have not an idea of it.

Did you see those three persons come upon the deck together? No; I think we were all on deck together.

Pergami, Teodoro, and Camera? That is the recollection I have of it; every body was upon deck.

Did the princess then come upon deck when you were all there? I do not recollect that the princess was below even.

Did you ever see Pergami take leave of her royal highness upon any occasion, in a different manner from those men just mentioned, Camera and Teodoro, or any other persons of her suite? I have seen him take leave more than once, and I never saw any thing else but the kissing of her hand, as every one else did.

You have frequently mentioned her royal highness sleeping in the tent on board; the sleep, when you mentioned her sleeping in that tent, is it to be understood that you meant that she rather reposed upon the sofa, than slept, in the general acceptation of the word sleeping, going to bed, and pulling off her clothes, for the sake of rest; are you to be understood, that she reposed with her clothes on, when you make use of the word sleeping? I do not believe her royal highness ever took her clothes off on board the polacre, except to shift herself in the day, to change her dress; that is my firm belief. I mean in the voyage back from Jaffa; on the first voyage she slept in her cabin.

You did not positively state, that you knew that Pergami was under the tent? I never saw him there.

If you state, that it was your belief that he was under the tent, do you also believe, that Pergami reclined in the same manner on the other bed, with his clothes on? I do not think Pergami ever took his clothes off either, while sleeping under the tent, for I never saw any bed-clothes on that bed.

Do you know where it was that her royal highness changed her clothes on the return from Jaffa, whether it was in the tent, or below? Below, in her cabin; I never saw her change her clothes upon deck.

You never saw her change her clothes? No, not any where.

Did you, from the window of the Villa d'Este, ever see a dance that Mahomet performed at that time? I did, I recollect particularly once; I was in her royal highness's room; I forget now what it was for, something I had to do, and we heard a noise in the court-yard; her royal highness went to the window, as I did also myself, and Mahomet was exhibiting this dance before, I did not know who they were, but several persons in the court-yard.

Do you know where Majoochi was at that time? I did not take particular notice of him; there were many servants there; I cannot say positively that he was there.

Was any other person in the room with her royal highness besides yourself, at the time you looked out of the window, and saw the performance of this dance? I do not think there was; I have not a recollection of any body being in the room but myself.

Did you conceive there was any great impropriety or indecency in that dance? Most certainly not; I never did.

How long is it since you saw captain Briggs? I have seen captain Briggs at Portsmouth, about two months ago.

Did any conversation pass between you at that time upon this subject? The subject of this inquiry? captain Briggs declined entering into any conversation on the subject.

You never have, to the best of your recollection, had any conversation on the subject with captain Briggs, since you were on board the Leviathan? I never have; I have only seen captain Briggs once since that time, which was in this house; he shook hands with me, that was all.

If you ever have had any conversation with captain Briggs, you think you would recollect it? I think I should recollect it.

Lord *Ellenborough*.—You say, that when you saw captain Briggs at Portsmouth, he declined having any conversation with you upon the subject of this inquiry; did you propose any such conversation to him? The object of my going to Portsmouth was that; it was from myself.

What was your reason for wishing to converse with captain Briggs upon that subject? I heard that captain Briggs was coming as a witness against her majesty, and I felt convinced that it could not be so, and I declared

that I thought so, and that I would go and ask captain Briggs himself.

What did you, in point of fact, ask captain Briggs? I asked him if it was a fact that he was coming.

What was captain Briggs's answer? He said he thought he should be called, he was afraid he should; that his testimony should be nothing but what was honourable and just.

Was that the whole of captain Briggs's answer? I think it was, I do not recollect any thing more.

In that answer captain Briggs does not appear to have declined entering into any conversation on the subject? Captain Briggs told me he could not enter into any conversation.

Did you ask captain Briggs to enter into any farther conversation? No, I did not press captain Briggs on any particulars, only asked him if he was coming and so forth; I forget the words exactly.

When did you see captain Briggs in this house? The day he gave his deposition.

Were you present during the examination of captain Briggs? No, I was not.

Had you any conversation with captain Briggs at that time? None but a few words, he shook hands with me over the banisters, and said, "I hope we shall shake hands when I come out."

That was the whole of the conversation? With the exception of "How do you do."

Did you ever see the tent closed on board the polacre, on the voyage from Jaffa to Syracuse, during the day? I have seen her royal highness falling asleep in the day-time, and I have closed the tent partially myself, brought it round so as to prevent the sun, or whatever it might be; but to close it close, I never saw it.

Were those the only occasions on which you saw the tent closed during the day-time? I do not recollect ever to have seen it closed, but on such an occasion it never was to say closed.

How frequently might that happen in the course of a week? I do not remember; I cannot say; it may have happened once or twice, or more times; I do not remember the number of times it happened.

Did you remain on deck after the tent was so closed? I may have remained on deck; yes, I dare say I did; it is more than probable I did.

Can you take upon yourself positively to say that you ever did? It is five years ago; I cannot remember so as to say that I did; it is a long time ago; I cannot remember such a fact as that.

When the tent was so closed, was any person under the tent, except her royal highness? I have not seen any body.

Can you positively say, that when the tent was so closed, you saw no one under the tent except her royal highness? I can positively say that I never recollect to have seen any body under the tent when the tent was so closed.

Did you ever go into the dining-room while the tent was so closed during the day? I do not recollect.

At what hour were you in the habit of leaving the dining-room in the evening? Eight or nine o'clock; I should think it might have been half-past nine.

At what hour were you in the habit of returning to the dining-room in the morning? I should think we breakfasted about ten.

Did you ever, on any occasion, enter the dining-room between the hours of eight or nine in the evening and ten in the morning? To go up that ladder, I must have frequently gone through the dining-room to go up that ladder on deck.

Could not you have gone on deck without passing up that ladder? Oh yes, there was another passage; in fact, I believe there were two other passages.

You have said you were not in the habit of remaining in the dining-room after eight or nine in the evening, and that you were not in the habit of returning to the dining-room till breakfast time in the morning; did you return to the dining-room after you had left it at eight or nine in the evening, and before you returned to it to breakfast? Only on the occasion of going upon deck after supper; to go on deck I have gone up that ladder.

What was the supper hour? There was no hour fixed precisely; eight, or half-past eight, or nine o'clock, as nearly as I can recollect from the time that has elapsed since.

Are you to be understood to say, that after supper you did not return to the dining-room till breakfast, except for the purpose of going up that ladder on deck? I had no other occasion in the dining-room, but the going on deck.

What is the latest hour at which you ever passed through the dining-room? At night I cannot say exactly to the hour; it might have been, as I have said before, as late as ten, or half-past ten, that I have gone up the ladder; sometimes the tent was closed later than at other times, I cannot say to half an hour.

Did you ever enter the dining-room after you knew the tent was closed? No, I should have gone up the ladder.

Endeavour to give a more distinct answer? I do not recollect to have ever entered the dining-room after the tent was closed, knowing it to be closed.

Between the hour of half after ten at night, and the time at which you returned to the dining-room in the morning, you had no means whatever of knowing whether the hatchway was closed or not? I cannot know that; I was asleep, I was in bed, the thing might have been done when I was asleep, but I do not believe it ever was.

The following Extract was read from the Evidence given yesterday:

"Are you to be understood to say distinctly that you do not conceive that there is any impropriety in a male person sleeping in the same tent, the lights being out, with a female? From the manner that the hatchway was open, and all the doors below, there was no mystery in it whatever."

Have you any personal knowledge that the hatchway and the doors were always open? I have always seen the door of the dining-room open, and as I stated before, I ran up the ladder at a late hour, the hatchway was open certainly, and I do not know that ever it had been shut.

Have you a personal knowledge of the hatchway being open in the interval from the time at which you left the dining-room till the time at which you returned to it? I have a thorough conviction that it never was shut.

Have you any personal knowledge of the fact? From seeing it open when I ran up.

Could not the hatchway be closed without removing the ladder? To have closed the hatchway the tent must have been opened, as the tent covered the hatchway.

Where was the cover of the hatchway itself? The hatchway itself was on the deck of the vessel; I do not know in what part of the deck the hatches were kept, whether they were on deck or down below.

Did you ever see the hatches under the tent? No, I never did.

Who slept in the dining-room in the voyage from Jaffa to Syracuse? I do not know; I have never seen any body sleeping there; I have seen a bed there in the day-time, rolled up, but I never saw any body sleeping there; I do not know who slept there.

Where did Majoochi sleep? He ought to have slept down in the hold, where the footmen slept; I never saw him sleeping down in the hold, because I never was down in the hold to see them.

Did Maurice Credi continue in the service of her royal highness after you saw him upon his knees? He continued in the service of her royal highness as far as Nuremburg, on the journey to Vienna.

How long was that? It was in the beginning of the month of November that this circumstance happened, and I think it was in the latter end of March or the beginning of April, in the following year, that we were at Nuremburg.

Where did he leave her royal highness's service? Her royal highness, I believe, gave him as a courier to her aunt, the margravine of Bayreuth.

Was the tent closed during the day-time by the orders of count Schiavini? It may have been; I do not know.

Was it ever completely closed as at night? I never saw it so.

Can you take upon yourself to say, that any one who swore that it was so closed would have sworn a falsehood? I cannot say that; not having seen it myself, I cannot answer for what another person has seen.

Earl *Grey*.—Have you ever seen the tent so closed during the day, that any part of the crew passing might not have seen who were within? No, I never did.

Earl of *Winchelsea*.—You have said, that you went up the ladder at a late hour of the night, what do you mean by the term late, how late was it? Between the space after supper, and the ordinary time for closing the tent on deck; I have said, I believe, ten o'clock, but I may be out half an hour, or even an hour, I cannot be positive.

Do you mean to say, that from that hour, ten at night, till ten in the morning, the tent remained quite undisturbed? I have never seen it touched after that time; I have been in my bed, and when I have come up in the morning (I am rather a late riser), it was always open.

Do you know, of your own knowledge, that the hatches were not within the tent? To my knowledge they were not within the tent.

Do you mean that you know they were not within the tent, or that you have no knowledge that they were within the tent? I have no knowledge that they were within the tent.

Lord *Auckland*.—Did you write your own challenge to baron Ompteda? I did.

It was your own composition? My own composition.

Are you well acquainted with the French language? I wrote it in English.

Was it sent in English? It was sent in English.

Did you give any copies of it, or know of any copies being given? I do not recollect having given any copies of it.

Earl of *Mansfield*.—Was there a companion to the hatchway? There was not.

No protection at all? No companion, it was quite open.

Were the rest of the suite in the habit of using that ladder in the day time? Yes, they were.

Lord *Clifden*.—Was not the princess, in fact, extremely fatigued by her voyage from Jaffa to Syracuse, and extremely impatient to get ashore; and did she not complain, her legs being swelled, as a person who had not been a bed? I perfectly recollect the fact.

Earl of *Lauderdale*.—Do you mean that you recollect her royal highness's legs being swelled? I never saw her royal highness's legs.

Do you then mean that her royal highness told you her legs were swelled? She did, in talking of the excessive fatigue of being on deck; I forget how many days now, but it must have been near forty days or more; she said that her legs were excessively swelled.

Have you read the evidence, as printed in the newspapers in this cause? I have not even read my own evidence of yesterday.

Have you read the evidence of Majocchi? I have.

Have you read the evidence of Demont? I have.

Have you read the evidence of Sacchi? Partially, not all.

Were particular passages pointed out to you to read in the evidence of Sacchi? No, not that I recollect.

How did you select the passages you read in the evidence of Sacchi? I have selected no passages; I have read them as any one would read them; I do not remember a single passage in Sacchi's evidence: I could not repeat one.

You have read the whole of it then?

Mr. *Brougham*.—My lords, I object to questions assuming the very reverse of what the witness has answered. The witness is asked, "How did you select the passages you read?" although he had said that no passage had been selected or pointed out. He is again asked, "you have then read the whole?" although he had said, that he had read only a part.

The Marquis of *Lansdown*.—I object to the word "select" being entered as part of a question to the witness, for he had not said that he had selected the passages he read.

The Earl of *Lauderdale* rose to explain, when the witness was ordered to withdraw. The witness said, he had partially read Sacchi's evidence, but not all. What was the inference but that there was part he had read, and part he had not? Now, how could this happen if part had not been pointed out to him for reading?

The Marquis of *Lansdown*.—I have read a paper partially this morning, and yet I have selected no part of it. [Hear, hear, hear!].

Earl *Grey*.—A person very naturally reads one passage, and then passes over the rest of the same subject. Is that selection?

The Witness was again called in.

Earl of *Lauderdale*.—Are you a knight of the order of St. Caroline? I am.

Have you a diploma as such? I have.

Can you produce that diploma? I can.

You have said that you arrived at Trieste at noon, and that you quitted next evening, I think, between six and seven o'clock? I think I said between five and six.

Does your recollection lead you to that fact or does your knowledge of that fact depend totally upon the letter you had written to your wife, which you have in your hand? I had already fixed upon twenty-four hours, being about the time we were at Trieste, and I only found the letter after I had so fixed my opinion.

Do you recollect any thing passing at Trieste about her royal highness endeavouring to obtain a sum of money? At Trieste I do not even know that she sent for her banker she may have sent for her banker, but I do not know any thing of it; I do not recollect any thing of the sort.

You have said you first saw Pergami at dinner with her royal highness in a courier's dress at Bellinzona, did Pergami on that occasion come into the room with her royal highness? No, I think he was in the room, and her royal highness desired him to sit down.

Did he sit on that occasion next her royal highness? I cannot recollect that; I do not recollect that.

Do not you recollect where Pergami sat, in a courier's dress, the first time you had ever seen him at her royal highness's table? I do not recollect it, or I would say so.

Do you remember whether her royal highness spoke to him in the course of the dinner? She may have spoken to him, but I do not recollect the fact; I do not recollect her saying any thing particular to him.

Do you remember speaking to him yourself? No, I do not.

Did not Pergami wait at table when you dined with her royal highness? At Genoa; after Genoa I do not recollect that he ever did.

Have not Louis Pergami, and the cousins of Pergami, waited at table, when you dined with her royal highness? Yes, they have.

Have you not seen, at her royal highness's table, the brother, the sister, the mother, and cousins of Pergami? I do not recollect the cousins; I have seen the former ones, but not the cousins, at table, I think.

Did you never see the cousin that was an accountant at table? No, I have never seen him at table.

Did you ever see Pergami's wife at table with her royal highness? I never saw her at all.

Were you ever at the Villa d'Este or the Villa Pergami when her royal highness was not there? I think I went once to the Barona with Pergami.

Recollecting that you have dined at her royal highness's table with Pergami, whom you have seen serve at her royal highness's table, with Louis Pergami, who has served you at her royal highness's table with Pergami's sister, and with his mother; and when you recollect the circumstance, further, that you have sworn to your belief that Pergami was under the tent with her royal highness at night, between Jaffa and Capo d'Anza; do you persevere in swearing upon your oath, that you have seen her royal highness do nothing improper or unbecoming of her station? I speak for myself; I had no greater claim to sitting at her royal highness's table than either of those people; I have seen people sitting at her royal highness's table while their fathers have been waiting at table; and I never saw any thing in the conduct of her royal highness, knowing the way she treats every body, to authorize such an opinion.

Did you ever wait at her royal highness's table? Never.

Mr. *Brougham.*—A lieutenant in his majesty's navy is asked if he ever waited at table!

The *Lord Chancellor.*—Mr. Brougham, object to the question if you think it improper, but you are not to make such observations if a question offends you.

The Earl of *Lauderdale.*—I am the last that would have asked such a question, had not the witness said that Pergami and his relations had as great a claim as he to sit at her royal highness's table.

Have any of your relations sat at her majesty's table? I do not believe they ever did.

Did you ever see Mr. Vallotti Pergami sitting at her royal highness's table? I do not know him by that name? I recollect an uncle.

What was that uncle? I do not know what he was.

But you recollect seeing Pergami's uncle sit at table with her royal highness? I have heard it was his uncle.

The following Extract was read from the Evidence of yesterday.

"What was the nature of the entertainments given by her royal highness at the Barona? There were no entertainments except to the farmer's daughters, to amuse in fact the household.

"Was the time of which you are speaking the Carnival time? It was.

"Did you ever see at those entertainments the wives of persons as well as their daughters? The eldest of the daughters was married; I do not recollect if any more were married, but I recollect one was married.

"The question does not refer to any particular family; but did the persons who attended at those entertainments bring their wives as well as their daughters? I have seen the wife of the chevalier Tamasia and his daughters, the wife of professor Mocatti, and the wife of baron Cavaletti.

"Who was the chevalier Tamasia? He had been prefect of Como for some years.

"Were the other persons whom you have named, persons who resided in the neighbourhood? Yes, they were, with the exception of the professor Mocatti, who was of Como.

"Do you recollect whether the clergyman of the place was there or not? I have seen him frequently; at the dance, I cannot say.

"Do you mean that you have seen him frequently visiting her royal highness? Frequently."

Earl of *Lauderdale.*—Who is Dr. Mocatti? He is professor of physic at Como, and I believe president of the college.

What college? There is a college, the college of Como, I think.

Is physic taught at Como? I think he is the professor of physic; he is called the professor Mocatti.

Is he not the practising doctor in that place? He is.

Who is Mr. Cavaletti? Cavaletti was equerry to the viceroy of Italy, prince Eugene; and I believe he was lately in the service of Napoleon Buonaparté; and was at the battle of Waterloo, in his suite.

Was he often at her royal highness's house? Very often.

Besides Mocatti and Cavaletti, and the chevalier Tamasia, whom else can you name that visited at that time? At the dances I do not recollect any other name.

Do you conceive a courier and a lieutenant in his majesty's navy equally entitled to sit down at her royal highness's table? Any body that should sit down at her royal highness's table, by her command, would authorize, I believe, a person of higher rank than a lieutenant of the navy to sit down with him.

Duke of *Clarence.*—Early in your examination yesterday you entered into the minute circumstances of your father, was your father ever in the service of any other person than the royal family? I can only speak from report, I believe he has been in the service of lady Charlotte Finch in his late majesty's household.

You having stated, that her royal highness embarked in Sicily to go up to the Levant and to return in her royal highness's suite, except yourself and Lieutenant Flinn was there any body in her suite used to the sea? None that I know of, except one English sailor.

Did you know from the beginning, the time that her royal highness slept in the tent on deck? It was from Jaffa.

Do I understand you rightly, that from the first night that her royal highness slept in the tent, you were fully aware of that circumstance? I was aware of it as much as I could be aware of it, without seeing her royal highness actually on her sofa.

You being aware that no one of her royal highness's suite was used to the sea except yourself and lieutenant Flinn, did you offer to afford your assistance in sleeping under that tent with her royal highness? I did not.

You have stated in your evidence that an English seaman was discharged; where was he discharged? At Athens.

How long had he been on board the polacre? Does the question mean actually on board the polacre, or belonging to the suite of her royal highness?

Belonging to the suite of her royal highness? I should think about two months.

Do you know the reason of the man's being discharged? It was in consequence of a quarrel, and, I believe, a fight with the cook.

There was no other reason than that for his discharge? I never heard of any.

Lord *Calthorpe.*—When you state that you

have seen the tent during the day partially closed, do you remember on any one occasion while that tent was so closed, having seen Pergami? I never recollect the tent so closed, but when it was closed in consequence of her royal highness having fallen asleep, as I said before, I have closed it partially; but with the exception of that, I do not recollect any other circumstance that should cause it to be closed.

Do you remember at any one time, when it was so closed, having seen Pergami? I do not.

You were understood to have stated, that when you went up on the sea breaking into the polacre, you are quite sure there was no light in the tent? I do not recollect having mentioned any thing about a light on the occasion of the sea breaking into the tent.

Do you recollect whether the tent was usually open in one part of it more than another? No, I do not.

Do you remember at any time having seen Pergami in a blue mantle? I do not recollect ever having seen him in a blue mantle.

When you witnessed that dance of Mahomet in the court of the Villa d'Este, and when you saw her royal highness looking out of the window, can you assert, that it was a dance of that kind, that a woman of virtue or of common delicacy of mind could behold without disgust? It was not more indecent, in my opinion, than the Spanish Bolero.

Were you not commissioned by her royal highness to convey some message to captain Pechell on board the Clorinde? I was.

Do you remember what the instructions were which her royal highness gave you upon that occasion? I do not recollect them word for word, but the purport of it was, that she would keep her own table in fact.

Do you recollect whether those instructions were coupled with any observation upon the part of her royal highness upon captain Pechell's conduct towards her? I do not.

You have said in a former part of your evidence, that her royal highness treated all her servants with a great degree of kindness and affability? Yes.

Do you recollect upon any occasion when her royal highness had given any directions respecting her route in travelling, or the inns to which she was going, suggesting to her any alterations in that route, which you thought it desirable for her to make? I do not recollect ever such an instance.

Who generally arranged the route that her royal highness was to take? I do not know, I imagine it was her royal highness herself.

Earl *Grosvenor*.—Do you know that the duke and duchess of Torlonia have dined at any time with her royal highness? I think they have.

Do you know whether the nephew of the duchess of Torlonia, Carlo Forti, waited at that time at table? It is the first time I have ever heard that Carlo Forti was nephew to the duchess of Torlonia.

Do you know whether Carlo waited at the time at the table? Carlo Forti never waited at table.

What was the nature of the dress worn by Pergami as courier? I think it was a bottle green and gold, turned up with scarlet.

Was it what you would call a handsome dress? A very handsome dress.

Did it resemble a hussar's dress? No, not a hussar's dress; it was richly embroidered with Brandenburghs, I think they are called.

Lord *Balcarras*.—Did not the swell of the sea occasionally make female attendance absolutely impossible? When there was any sea, that the vessel was in motion, the female attendants were as helpless, if I may use the term, as her royal highness herself.

Is it to be understood that male attendants were absolutely and indispensably necessary, both by day and by night? I should think, that for any thing her royal highness would want, there should be a male attendant that could procure it for her.

Was there any steward, whose duty it was to attend to the cabin, and also to the deck? None in particular.

Earl of *Rosebery*.—After the sea struck the tent, were the hatches closed? I think they were.

Where were the hatches found for that purpose? I do not recollect that, I do not know where they were.

Can you mention where you ever saw the hatches lying? I cannot call that to remembrance; I do not recollect seeing them in any particular place.

Did you ever see them at all? I have seen the hatches, the sky-lights; I have seen them on the deck, but at what spot I cannot tell.

Whereabout? On the deck.

Were they a grating, or closed? They were sky-lights.

Duke of *Richmond*.—You have stated, that the first time you saw Pergami dine with the princess of Wales in his courier's dress, you do not recollect where he sat; will you swear he did not sit next to her royal highness? I do not recollect the circumstance, I have said so before.

If Pergami had sat next to her royal highness, do you think you should not have recollected the circumstance? I do not recollect it, or I would say so at once.

The following question was put at the request of Mr. Attorney General:

Had you not a Genoese servant of the name of Francisco, attending you at Ruffinelli? I had a Genoese servant, of the name of Francesco, but he was not my servant when we were at Ruffinelli.

Was he then a servant of her royal highness, and wearing her royal highness's livery? He was.

Do you know where that servant now is?

No, I do not; I have seen him in London, but I do not know where he is now.

When did you last see him in London? I am not quite certain as to seeing him since I came back from France the last time, but I think I have.

Where did you see him when you last saw him? The last time I saw him was at Mr. Vizard's.

The Witness was directed to withdraw.

Then *Granville Sharpe*, esq. was called in, and having been sworn, was examined as follows by Mr. Denman.

Describe to the House what situation you hold in life? I have been in the East India company's service nine years, in the army.

Have you resided in the East Indies? Yes.

How long have you lived there? Above nine years, almost ten.

When did you return from India? About three years ago.

When you resided there, did you ever see the Moorish dance called "dema dema?" I have seen the Moorish dance, but did not know it to be called by that name.

Was it accompanied by any expressions? Yes.

Do you remember what those expressions were, the sounds? Different unmeaning sounds, some of which I cannot remember; I do not know that I can remember any.

Is there any thing indecent in this Moorish dance; any thing unfit for women to witness? Certainly not.

Whereabouts are the hands held during the dance? The hands are thrown about in various positions generally above the head.

Are the knees bent; is there any curtseying? Yes it is accompanied by curtseying throughout.

Do the unmeaning sounds you describe form a tune that the dancer dances to? Yes, they sing it to a tune.

Where have you seen this, at Calcutta? I have seen it at Calcutta.

In what places? In the government-house.

Who was governor at the time? The marquis of Hastings.

Was his excellency present while this dance was exhibited? He was.

Was the marchioness there? She was.

And other ladies? Yes, other ladies.

Do you remember whether the bishop of Calcutta was present? Yes, the bishop of Calcutta was present.

Was his lady there? Yes, she was.

It is not asked whether there was any thing indecent in the dance that was so exhibited? Certainly nothing?

That was the ordinary Moorish dance? That was the ordinary Moorish dance.

Cross-examined by Mr. *Parke*.

There are many other kinds of dances danced in the East Indies, are there not? They are all in the same character; sometimes the dances are quicker, sometimes slower.

How many persons danced at the dance you describe? One person at that particular dance I mean.

Are there any dances at which ladies are not present? I never heard of any; I believe not.

The Witness was directed to withdraw.

Then *Santino Gugiari* was called in, and having been sworn, was examined as follows by Dr. Lushington, through the interpretation of the Marchese di Spineto.

Were you ever in the service of her royal highness the princess of Wales? I have been.

In what capacity? Factor.

What were the duties you performed in that situation? To keep a watch upon the working people; to mark down their accounts, and to pay them on the Saturday; to take care and distribute the wine to the family, and all other services which the masters commanded me in regard to the house.

Where was it you performed those duties? In the Villa d'Este, in the gardens of the Villa d'Este, in the vineyards, &c.

How long did you continue to perform those services? I was born in that place, and when I was eighteen years old I undertook the office of factor.

How long were you in the service of the princess? From the moment she bought the Villa till she left the place.

Do you know Luigi Galdini? I do.

What is he? He is a mason by trade.

Did you ever employ him? I have.

At what wages per day? Two livres of Milan per day.

Do you know a person of the name of Brusa? I do not.

Do you know a person of the name of Raggazoni? I have heard that he was a mason who worked at the Villa, perhaps I may know him by sight.

Do you know Paolo Raggazoni? I do not.

Do you remember the grotto at the Villa d'Este? I do.

Do you remember there being at the Villa d'Este two statues of Adam and Eve? I do.

Did they ever stand in that grotto? They were in the grotto.

In what room in that grotto did they stand? In the first rotunda or octagon.

Was there another rotunda or octagon? In that grotto?

Yes? There were two octagonals.

Was any cornice made to the rotunda or octangular room in which those statues stood? There was not.

Was there any scaffolding erected, or any work done to the cornice in that octangular

room where the figures of Adam and Eve stood? There was not.

Was there any cornice made in any other octangular rooms? There was.

In both or in one only? In one alone.

Describe the passage or mode of communication from the room where the statues of Adam and Eve stood, to the octangular room where the cornice was made.

The Witness made a drawing.

Interpreter.—This is a drawing the witness has made of the grotto; the octagon where the statues of Adam and Eve were, and of the octagon where the cornice was made, with the corresponding passages and staircases, &c. [The same was delivered in.]

Could workmen at work at the cornice in the octangular room by possibility see the statues of Adam and Eve in the room in which you have stated them to have been in the grotto? They could not.

Why? Because the passage, the communication, is crooked, and prevents the sight.

Did the statues of Adam and Eve ever stand in any other room in that grotto, except the one you have already stated? They did not.

Was a cornice made to any other room in the grotto, save the octangular room you have stated, since the princess came to the Villa d'Este? It has been made in the highest rotunda that I have marked upon the paper.

Has a cornice been made in any other room in that grotto? A cornice was made in the two rooms; the rotunda and the square room, which I have marked in my drawing.

Could you see the statues of Adam and Eve from either of those rooms in which a cornice was made? I want a better explanation.

Could you see the statues of Adam and Eve from either of those rooms in which a cornice was made? No.

When were the statues of Adam and Eve removed from that grotto? Before the return of her royal highness.

Return from whence? The return from her journey in Turkey,

To what room were those statues removed? Into one of the Mosaic rooms, which was newly built in the palace.

Had those rooms been finished completely before her royal highness returned from the long voyage? They had.

Were the workmen removed from those rooms before the princess returned from her long voyage? Those rooms had been left by all the workmen.

Had the scaffolding been taken away before the princess returned from her long voyage? From the Mosaic rooms, yes.

How long before the princess's return? About eight or ten days before her arrival.

Were those rooms then fit for the reception of her royal highness? They were.

Was the Mosaic room a round room, or not? Where the statues were, the room was square.

What was the next room to that where the statues were? The first room of the Mosaic rooms, there were the statues; the second was a small oblong cabinet.

Of what shape was the room next beyond the small oblong cabinet? An octagon, or round room with columns.

Could any person at work in that octagonal room see the statues of Adam and Eve? He could not, because they were by the side of the opening.

Cross-examined by Mr. *Parke.*

How long were you in the service of her royal highness? From the day on which she bought the Villa till the day that she left the country.

Were the statues in this octagon you have described when you first went there? I was born at the Villa d'Este.

Were the statues in the octagon you have described when you first entered into the service of the princess of Wales? They were in the grotto.

Were they in the same part of the grotto you have just described? They were.

Was that the largest room in the grotto that they were in? In the first octagon that I have mentioned.

Were they in the largest room in that grotto? I will not say the largest, because the square rooms are somewhat greater than the others.

Then the square rooms you describe are only a little larger than the octagon? They were.

And only a little larger? The exact dimensions properly I do not know, but they were larger than the rotunda.

How many rooms were there in this grotto? Six, comprising the round rooms and the square rooms.

Were they all on the same story? They were not.

Was there one above the other? A person mounts the steps, then comes a level, then come more steps, and then another level.

There was a few steps from one place to another, were there? In some places the steps were few, in some others there were many.

How high was the floor from one part of the grotto above the other? In the height of the first room there were ten or eleven steps, which constituted the height of the room, from the rotunda where the statues were, to the room above.

Do you mean that in going out of the rotunda to the next room, you would pass up eleven steps. About.

To what purposes were the different rooms of this grotto applied? To no purpose, except that of seeing a subterraneous place.

Was the room you have described the only room that had statues in it? The second

room had a small statue representing Artemisia weeping on a tomb.

Was that the only room, besides the octagonal room you have mentioned, that had statues in it? It was the only one.

Were the rooms open to each other? After the steps.

After the steps, they were open to each other? The two rooms communicated together, the first room was the rotunda, in which there were the statues; on mounting the steps came the second room, where Artemisia was; after the second room, on the same level, there was another room, a gothic room; there is a passage, and then one step on the right, after two or three steps there is a rotunda? after this rotunda, on the same level, there is a second rotunda, larger, where a cornice was made; after that rotunda comes a half-square room.

Then the two rotundas you have mentioned were on the right, after passing through the two first rooms? You turned on the left and then you turned on the right.

Then you passed through one rotunda to go into the other; Yes, but a person may pass also by the left; there are two openings.

Were all these passages open? They were open.

Were there no doors at all? No.

No doors in any part of those grottoes? There were at the beginning and the end two iron gratings, a species of gates.

Could a person see through those gratings or gates? Yes, because they are open; the divisions are much apart.

Was there a pillar between them for them to rest upon? They shut up the entrance and the exit.

Did they open close upon the wall or pillar? They were attached to the wall.

They were fixed on each side into the wall; but what was there in the middle to support them? The gates were of one piece, and they shut against the opposite wall.

Were there any pillars in this grotto in any of the rooms? There were.

In which of the rooms were these pillars? In the second room after the rotunda, small columns.

Look again at the plan you have drawn. Looking at that again, will you swear that is an accurate plan of the place? I cannot call it exact, because there are not measures or proportion.

How long is it since you came to England? About ten or eleven days.

Did you come direct from the Villa d'Este? I did.

Did you see a man employed in the Villa d'Este to take plans of different places? I have seen several persons belonging to government taking drawings, plans, but this I do not know.

Did you not see an architect of the name of Ratti employed in taking plans at the Villa d'Este? Yes, I have.

When was it that you saw him? I cannot mention the exact time.

You are not asked the precise time; did you not see him within a month or six weeks? It is more; it is about three or four months.

It is three or four months from this time that you saw him? Yes.

Does Ratti live at Milan, or at Como? He lives at Milan.

Did you come with any witnesses here? I did.

How many? Fourteen.

Did you collect and conduct those witnesses here? No.

Who was it that did? The will of those witnesses who came with me.

Did they all pay their own expenses? They came by their own will; but the expenses were not paid by them, but were defrayed by the order of chevalier Vassali.

Did Vassali come with you? He did not.

Who paid the expenses on the road for those people? I paid for their victuals.

Of all the fourteen that you brought? Yes.

Did you apply to any persons to be witnesses for the Queen before you came? To no one.

Did not you apply to one single person to be a witness? To no person.

When did you set out to come with those witnesses? A month last Sunday; I set off on the 10th of September.

Were you examined before you came? I was.

Where were you examined? At Milan.

By whom? The advocate Codazzi, and an Englishman called Henry.

Did you give the same account to them that you have done to-day? All that was true I have said.

You are understood to say, all you have said to-day? No.

Did not you say, you had told all that was true? Yes.

And you told all that was true to the advocate at Milan? Yes.

Then did not you tell him all you have said to-day? I was not questioned as I am questioned here.

Who has examined you since you came here? A gentleman, an advocate here, I do not know his name.

What was it you were not interrogated about by the advocate at Milan? There are many things that I have been questioned here, and that the advocate at Milan has not questioned me upon.

Did you endeavour to get information from the witnesses that had been examined at Milan before that? No.

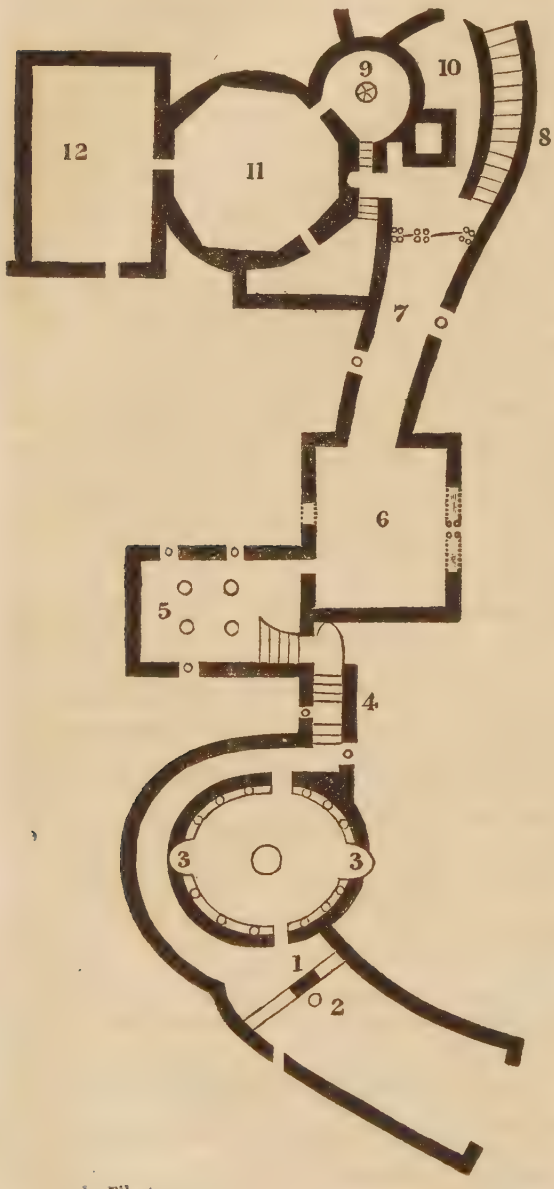
What sum of money do you receive for coming here? Fifty Napoleons or twenty francs each, for all the company, for all the fifteen.

Have you received any thing for yourself? I have not.

Are you to receive any thing? I ask for

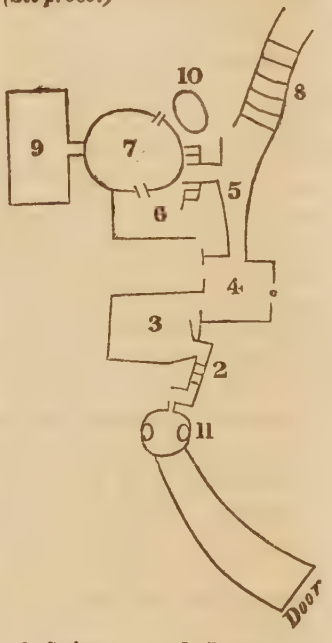
PLANS OF THE GROTTO AT THE VILLA D'ESTE.

Plan II. — Made by Santino Gugiari, and sworn to on his Examination, 12th October, except the Dimensions. (See p. 570.)



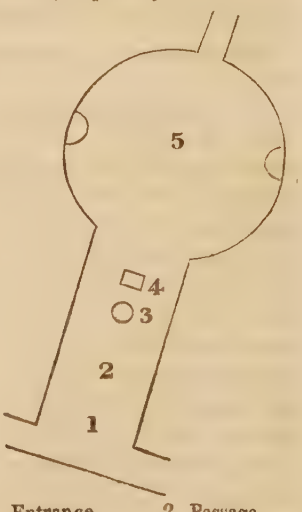
1. Pilaster.
2. Column.
3. Adam and Eve.
11. 12. } Rooms in which they worked the Cornice.

Plan I.—Drawn by Santino Gugiari in his Examination, October 12th. (See p. 565.)



2. Staircase. 3. Room.
4. Room. 5. Passage. 6. Room.
7. Octagon in which the Cornice was made.
8. A Staircase leading to a Wood.
9. Room. 10. Octagon.
11. Octagon where Adam & Eve were.

Plan III. — Drawn by Giuseppe Giavolini on his Examination, Oct. 13th. (See p. 594.)



1. Entrance. 2. Passage.
3. Column. 4. Pilaster.
5. Round Room.

Engraved for Hansard's Parliamentary Debates, Vol. III.
To face Page 570.

nothing, but if her royal highness will make me a present I will receive it, but I ask for nothing; for I have come here to tell the truth only.

Have you received no promise of any sum of money? No.

Have you received no promise of any money, though not of a particular sum? No.

Neither from Vassali, nor Pergami, nor any other person? No.

Will you swear that you expect nothing? What have I said before? if they make me a present I will take it; if they do not, I will ask for nothing; I do not claim any thing.

Upon your oath, do you not expect money, from some person, in consequence of coming here? Yes.

Is it to be understood that you will swear you do expect money, or that you will swear you expect none? I do not understand the question.

Is it to be understood that you will swear you do expect money, or that you will swear you expect none? I repeat again that I have come to tell the truth without hope of receiving money.

Give a distinct answer to that question, will you swear that you expect no money? I swear that I do not claim money, but if they should give it to me, I do not refuse it.

Will you say yes or no, will you swear you do not expect money? No.

How did you travel here, in what way did you travel? In a carriage.

By post? By post.

Did you pay your own expenses? For the expenses of food, but not for the post.

Did you pay for the expense of food out of your own money? No.

Who gave you the money? The chevalier Vassali.

Who paid the posting? The courier.

What was the name of the courier? He is called Francis.

What other name? I do not know his family name.

Examined by the *Lords*.

Earl *Grosvenor*.—Are there any other columns in the grotto than those you have described? There were.

Where were they? There is one between two windows in the third room.

Was there any pillars in the grotto, from which it was possible to see the statues of Adam and Eve? There was no column to enable a person to see Adam and Eve.

Was there any column or pilaster from which a person might see the statues of Adam and Eve? There is a pilaster before the door with a column before the pilaster, from which a person may see the statues of Adam and Eve.

Mark whereabouts this pilaster or column was? I have not said, can be seen, but I have said, that before the door there is a pilaster, and before the pilaster there is a column.

A doubt being suggested, whether the answer to the last question but one was rightly translated, the Interpreter was desired to give it in the words of the witness.

[*Interpreter*.]—As far as I can recollect, and I think Mr. Cohen agrees with me, that the question put by me to the witness was this, "Was there some pilaster or some column from which those statues of Adam and Eve could be seen—Vi era qualche pilastro o qualche colonna da cui si potevano vedere queste statue di Adamo e di Eva?" to which he answered, "To see those statues of Adam and Eve?" I said, "Yes;" then the witness said, "There was a pilaster before the door, and a column before this pilaster—Per vedere queste statue di Adamo e di Eva." On my saying "Yes," he proceeded, "Vi era un pilastro avanti la porta ed una colonna avanti questo pilastro."

The interpretation was explained to the witness by the Interpreter, and he was desired to state whether it was correct.

That is right; but as I had not understood well your question, I put that to see, and then I said that there was a pilaster and a column.

Earl *Grosvenor*.—Can you say how far that pilaster was from the statues of Adam and Eve? If I could see the plan which I have drawn, I could show the thing better.

The Plan was handed to the Witness.

Not this, but one that is more clear than this.

Earl of *Lauderdale*.—What plan do you mean?

Dr. Lushington stated, that the plan referred to by the witness had been drawn by the witness before he came into the House; but wishing that the witness should not appear to do it under the dictation of any person, but from his own recollection, he had not produced that plan.

The Counsel were informed, that if the Witness would swear it was a true plan, it might be put in.

A Plan was shown to the Witness, and he was asked,

Earl *Grosvenor*.—Is that plan made by yourself? It is.

Is it correct? It is not exact in the measure, but it is a representation of the grotto as it is, except the dimensions.

The Counsel in support of the Bill were asked, whether they wished to put any question upon this plan.

Mr. *Parke*.—When was this plan made? About an hour, perhaps half an hour, before I came here.

Earl *Grosvenor*.—Is it, as far as you can recollect, a correct plan of the rooms? It is.

The Plan was delivered in.

Can you say, whether a person placed behind that pilaster, could see the figures of Adam and Eve? I believe not, because the pilaster is out of the room, and the statues of Adam and Eve on are the opposite side, and the room being round, a person cannot see them.

The Witness was directed to mark upon the plan where the pilaster was, which he did.

Was the passage, which you have here described, leading to the rotunda, connected with the rooms in which the persons were working on the cornices, or were those rooms on the other side of the building? People might go inside as well as outside.

Was the passage which you have here described leading to the rotunda, connected with the rooms in which the persons were working on the cornices, or were those rooms on the other side of the building? For the convenience of carrying in materials, they went outside, because the doors were too narrow to pass.

Was that the room No. 6. where they were working on the cornice? No.

Where were they working on the cornice? They were working on the cornice in No. 11 and No. 12.

Earl of *Blesington*.—Had those statues of Adam and Eve any fig leaves round them? It represented a vine leaf, which was made of tin, and was painted green.

Were they hung upon a wire? A brass wire.

Was the vine leaf moveable by this wire? It was.

Had both those statues vine leaves? Both.

When they were moved into this mosaic room, did those vine leaves remain on the figures? They remained, and are still there.

Did you make the plan you made just before you came into this House entirely from memory? I did.

The Witness was directed to withdraw.

Then *Giuseppe Giarolini* was called in, and having been sworn, was examined as follows by Mr. Williams, through the interpretation of the Marchese di Spineto.

From what place do you come? I came from Milan.

What business do you follow? A master mason.

Have you ever been employed by the princess of Wales on the Villa d'Este? I have.

Do you know a person of the name of Raggazoni? I do.

Was he a master workman or a common workman? A daily workman.

Had he any men under his employ at the Villa d'Este? No, I have given a piece of work to seven or eight companions, and they came all together to be paid for their work.

Do you know the grotto at the Villa d'Este? I do.

Do you remember at any time any work being done upon that grotto? I do.

Was that the work to which you allude, when you say you let out some work to Raggazoni and some others? They worked by the day, and not by piece; it was another time that I gave them this work.

Do you remember any cornice work being done in any part of the grotto? I do.

Do you remember there being any statues of Adam and Eve in any part of that grotto? I do recollect.

Was there any cornice work done in the room where the statues of Adam and Eve were? No, nothing at all.

Was there any cornice work done in any other part of the grotto, according to your memory? At the top, where there was an octangular room, there was another room, which I had built myself, and they worked in no other room but that.

Were they at work upon the cornice in that room? Upon the cornice.

That is the work of which you spoke? It is.

Had they scaffolding up for that purpose? They had to reach the ceiling.

Has there been any scaffolding put up in any other room or part of the grotto but that? In no other but those two rooms, the octangular room and the square room.

Did the square room join to the octangular room? Yes.

Was the square room or the octangular room nearer to the statues? The octangular room.

From the place where the scaffold was set up in order to work at the cornice, could any person see the statues of Adam and Eve? In no way could those statues be seen, because the passage is all winding.

Do you mean the passage from the square and octangular rooms towards the room in which the statues stood? First coming from the octangular room, there comes another room, and then another passage, and then another room where the statues were.

Was the passage you have just described the winding passage to which you alluded before? Yes, winding; and there are steps.

Do you know a person of the name of Restelli? I do.

What is his other name? Giuseppe; I know no other.

Do you know whether the man is in England; have you seen him in England? No.

Do you remember to have seen that Restelli before you left Milan? Before he was away from Milan, when I came.

Do you remember to have seen him at Milan before you came over to England? Long before; much time before; we have been together, and I have seen him.

At that time do you remember any thing being said by Restelli upon the subject of your having worked for the princess?

The *Solicitor General* objected to the question, and asked, to what part of the evidence of Restelli it was meant to be applied?

Mr. *Williams* said, he referred to pages 226, 234, and 441 of the printed Minutes.

The *Solicitor General.*---Give me a little time to look at it, for I certainly shall object to this question, unless some good and valid reasons be offered for pressing it.

Mr. *Williams.*---I am about to establish a contradiction in Restelli's evidence. He applied to witness to come over here and give evidence, and tendered him money, or an equivalent for money for his evidence.

The *Solicitor General.*---Unless that be distinctly referred to in the former examination of Restelli, I shall certainly object to this question.

Mr. *Williams* said, he was about to apply his questions particularly to those parts of Restelli's evidence which were contained in pages 226, 234, and 441 of the Minutes. He was about to establish the fact, that Restelli had come here to give evidence on an offer of money or some equivalent. He would go further, and show, that Restelli himself had been employed by the Milan Commission to collect evidence against her majesty, and they would find, in page 226, an admission that he had actually sent over a witness, Raggazoni. Their lordships would there find that Restelli told him he must go to Milan to be examined, as the government wanted him.*

The *Lord Chancellor* asked whether that was not on the cross-examination?

Mr. *Williams* said it was, and then referred them to page 234, in which the witness, Mejani, stated that Restelli was the person who told him he must come to England.† He next adverted to page 411, containing the point of Restelli's evidence which he was prepared to contradict. Restelli had then denied that he offered money to the witness. But their lordships would recollect, that this was not a common case in which the strictness of legal rules ought to be enforced. They had not the same opportunity, as in other cases, of inquiring what was done by the civil agent. In the courts below there were always two parties; but that was not the case here. The Queen was certainly in attendance, but it was not ascertained who the party was, or whether there was any party on the other side. No strict analogy could therefore be supported. He would say, however, with great deference, though, at the same time, with great confidence, that it might form a most material feature when their lordships came to decide on the credibility of the evidence, how far that evidence was obtained by promises of reward. Besides, he could prove against that person a great activity of agency.

The *Lord Chancellor* observed, that it was then so near four o'clock, that they could not bring the argument to a conclusion; but he would beg to call the attention of the counsel on both sides to page 412, from which it appeared, that Restelli, on being asked whether he had offered any body money for coming here as a witness, answered that he had not.*

Mr. *Brougham* stated, that there were two grounds of objection; first his agency, and, secondly, the contradiction of his evidence.

The *Solicitor General* said, that Restelli having denied that he had offered money to any one, if his learned friends had any witness to produce who could prove that he had, no objection would be made to the production of such evidence.

The Counsel were directed to withdraw; and the House adjourned.

HOUSE OF LORDS.

Friday, October 13.

The Order of the day being read for the further consideration and second readiug of the Bill, intituled "An Act to deprive "Her Majesty Caroline Amelia Elizabeth "of the Title, Prerogatives, Rights, Privileges, and Exemptions of Queen Consort of this Realm, and to dissolve the "Marriage between His Majesty and the "said Caroline Amelia Elizabeth;" and for hearing Counsel for and against the same;

The Counsel were accordingly called in.

Then *Giuseppe Giarolini* was called in, and further examined, as follows, by Mr. Williams, through the interpretation of the Marchese di Spineto.

You said yesterday you were employed as a builder at the Villa d'Este? Yes, head master.

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* See Vol. 2, p. 1096.

† Ibid, p. 1102.

* See Vol. 2, p. 1254.

Were you paid as you went along, or was there a bill run up? Before her royal highness set out for the long journey, I was paid regularly every week; after her departure, we entered into contract of 75,000 livres; I continued to work under the direction of Ratti, who was the architect, who made me build several other things, more work, this made the sum amount to 145,500 livres.

Did you see Restelli, when that sum of money was owing to you? Yes.

Do you remember any mention being made by Restelli to you of that bill, or payment of it? He asked me what was my credit against her royal highness, and I answered that, deducting that which I had received, it amounted to 45,500 livres.

Was any thing said about the manner of getting that bill paid? There was.

State what it was?

Mr. Solicitor General submitted whether this conversation between the witness and Restelli could be given in evidence.

The Counsel were informed, by the Lord Chancellor, that if it was a discourse in which Restelli offered him money for coming here as a witness, Restelli, having said that he offered nobody money for coming here as a witness, it would then amount to a contradiction of Restelli; that if it did not amount to that, it would not be evidence.

The *Solicitor General* submitted, whether, in that view, it would not have been proper, as on a former occasion, to have asked Restelli when under examination, whether he had ever said any thing about money in a conversation with this particular witness. Surely his recollection should have been precisely called to a conversation with this man, before the latter's testimony could be received in contradiction. This, indeed, was necessary, to enable the House to judge of the conflicting testimony. Restelli's answer stood quite general, and without the explanation that might have accompanied and elucidated it, if his recollection had been called to the precise occurrence. The printed evidence was regularly transmitted to Italy, and the witnesses who now came over had an opportunity of seeing it. They had, therefore, the advantage which must necessarily arise from being put in possession of that information. He repeated, that Restelli ought to be asked particularly, whether he conversed with this man, before the latter's contradictory evidence could be received against him, as otherwise, the proceeding would be most awkward, while it would serve to establish a precedent peculiarly dangerous to the character of a witness.

Mr. *Williams* denied the force of this argument, and said, that he was only seeking to get at a fact, which he had a right to do in his own way. He could see nothing awkward in the proceeding, except that of getting out the fact that Restelli had offered money to this witness.

The *Lord Chancellor*.—You may get at the fact, without asking the whole conversation.

Mr. *Williams*.—I ask the witness, whether Restelli, in the conversation with him, suggested any mode of his getting payment of the balance of the debt due to him by her royal highness?

The *Lord Chancellor*.—Cannot you ask him, whether Restelli made him any offer of money?

Mr. *Williams*.—Or money's worth.

The *Lord Chancellor*.—Yes, that is the same thing.

The Earl of *Lauderdale* thought the witness ought to be examined to a particular fact, and not generally. The counsel for the defence inquired generally, whether Restelli had proposed to this witness that he should go to Milan. The noble and learned lord had said, it might be asked whether Restelli had "offered any money," or "money's worth," but the learned counsel would go on to whether Restelli had given any direction to the witness relative to the way in which he should seek payment of his bill.

The *Lord Chancellor* considered that the question, whether Restelli had offered money, or money's worth? might be put, as it appeared, upon reference to the evidence, p. 412, that Restelli denied his having made an offer of money to any body to become a witness in this cause.

Mr. *Williams* proposed to ask the witness, whether Restelli had made any offer of money, or money's worth, or any advantage?

The *Lord Chancellor* recommended, rather, that the witness should be first asked, whether Restelli had ever offered him any money, and, the answer to that question being obtained, Mr. Williams might then state any further question as to any offer of advantage, upon the propriety of putting which, it would be for the House to decide.

The Examination was resumed.

Did Restelli offer you any money? He told me if my account was not liquidated, to send it to him, and he would contrive to see me paid.

What did Restelli say you were to do for that? He told me to give my account to him, for there were Englishmen at Milan, and he would see me paid.

Did Restelli say to you at that time, what you were to do in order to get that bill paid? He told me, that if I had any thing to say against her royal highness (for I had been a long time in her service) to tell it to him, and he would endeavour to make me be paid.

At that same time which is now spoken of, or at any other, had you any further conversation with Restelli, about what Restelli was doing as to witnesses?

The *Solicitor General* objected to this question, as being decidedly contrary to the established rules of evidence.

Mr. *Williams* begged, before their lordships decided upon this question, that he might be allowed to offer a few words for their consideration. In the first place, he felt it necessary to refer to the evidence, with respect to Restelli's general agency. At page 411, it would be found that Restelli had been asked—"Did you not become a very active agent of the Milan commission?" To this the answer he returned ran as follows:—"I was not an agent; they have given me orders only as a courier (which is my profession), and as courier I have travelled."—Hence it appeared that Restelli denied that he was the agent to the Milan commission, or what amounted to the same thing. The evidence which the counsel for the defence would now submit to their lordships, would go to show what this same Restelli had stated to the witness, what he had done in the collection of witnesses, in bringing persons before the Milan commission to be examined, and in making other arrangements for collecting persons who were to be examined in this cause. It was therefore intended to call on the witness to state the names of several persons with whom Restelli had described himself to have been active in offering various sums of money and other inducements to prevail upon them to give evidence. On this ground, he apprehended their lordships would not refuse to permit him to examine the witness as he had proposed to do; but, in addition to this, there were several facts that appeared on the Minutes to which he proposed to refer their lordships.—If their lordships would refer to page 226, to page 234, and to page 411, in each of these it would be found, that facts were stated which went to prove the active interference of Restelli as an agent for the commission, at different places there named, and in taking witnesses with him to Milan to be examined; and thus it would be seen, that direct proofs that he had been employed in Italy to collect witnesses for the prosecution were brought home to Restelli. He would admit that, generally, it was a point of law established and acted upon in the courts below, that, as a preliminary point to prove an individual to have acted the part of an agent, it was necessary to establish his connection with one of the parties in the cause, and the situation in which he stood with respect to the plaintiff and defendant. But in the case now before their lordships, this analogy must fail; as in this case there were no ostensible parties, there were no such persons as plaintiff and defendant. This, however, he conceived their lordships would feel, would be a very narrow, and he must add, a very unsatisfactory ground on which to refuse such evidence as they had to offer, to establish the agency, as well as to contradict the testimony of Restelli. If he proved that this person had been employed in collecting evidence, he hoped it would not be denied that he was an agent, because he necessarily laboured under the disadvantage of being unable to establish what, in ordinary cases, should be the preliminary point, from there being no ostensible party on the other side (he wished there had been) in this cause, the Attorney and Solicitor-general being merely shadows, while the substance was unseen. He contended, that the evidence he was anxious to offer was most material to put their lordships in possession of the case, and therefore he trusted, that on such grounds as he had stated, they would not feel justified in refusing to allow it to be given.

Mr. *Brougham* observed, that his learned friend, Mr. Williams, had so fully explained his view of the case, that little remained for him to say. They wished to offer the evidence in question first, as a contradiction to part of Restelli's evidence, they having obtained from Restelli a denial that he was the agent of the Milan commission, and a declaration that he was only employed as a courier. They proposed to negative this, by proving that he had stated to the present witness, that he had performed duties which had nothing to do with the office of a courier. If they had known that Restelli was to have been called, instead of being igno-

rant of that fact, as well as of what he was to prove, they would have put such questions to him as would have made the testimony now sought to be offered, admissible under the most rigorous rules of courts of justice. But, ignorant as they were of the intention of calling Restelli, and of the charges that he was to sustain, they had had no time for making those inquiries which would have enabled them to take such a course. They might then have been able to lay a foundation for future contradiction, *ex concessis*, from the admissions of the witnesses, by putting such questions as—"Did you not tell them, that you had employed such a person?" He was aware that there was a more direct way of proving agency in the courts below; but even in the courts, evidence of the sayings and dealings of the party might be given as a proof of contradiction, though it was not the usual course. But there was another ground upon which they had an incontrovertible right to give evidence of the sayings and dealings of Restelli.—He had denied all active agency; he had declared, that he acted only in the capacity of a courier; but he had let out enough to show, that he was so far an agent employed by the Milan commission, as to give them a right to offer evidence of what had actually been said and done by him in the capacity of agent.—In his cross-examination he admitted, that he had told one witness that his expenses should be paid. Then he says he is only a courier; but persuading a person to go and give evidence was no part of the duty of a courier. They had connected him with the Milan commission, which he was not disposed to consider a shadow, as it had been designated by his learned friend. He could scarcely agree with him, indeed, that the attorney and solicitor-general were shadows; but as to the Milan commission, her majesty's defenders had found it a substantial and formidable party. He contended, that he had a clear and indisputable right to give in evidence of what had been said and done by the agents of the Milan commission, in getting up the evidence by which the charges were to be sustained, with a view of contradicting the testimony which had been given by Restelli.

Mr. Solicitor General said, his learned friends on the opposite side had argued that they had a right to have the question which had been objected to, answered, on two grounds. In the first place, they contended that it ought to be answered, because it went to establish a contradiction of the evidence of Restelli, who, being asked if he was an agent of the Milan commission, had replied, "that he was not generally their agent, but had been employed as a courier; and, in this capacity, had advised several persons to go to Milan, and had sent Maurice Credi and another individual before the commission!" Now, his learned friend had said, that he had a right to prove certain declarations made by Restelli to the present witness. He (the Solicitor-general) apprehended that he had no right to prove such declarations for the purpose of establishing a contradiction of Restelli, by showing that he had been the agent of the Milan commission; for Restelli had admitted, in a qualified way, that he was the agent of the Commission; and if, therefore, it was meant to contradict him, he ought to have been more particularly questioned, as to the precise situation which he had held. The second ground which had been laid for this question was, if possible, still less to be depended upon. In the first place, if they should prove that Restelli had stated himself to act as an agent to the gentlemen who were at Milan, and who were called the Milan Commission, it would not be just that he should be regarded as their agent, unless it were proved that he had acted as such by their authority. They might have sent him as courier to certain individuals, desiring them to attend; but was it therefore to be proof that every thing that he had done could be admitted into this inquiry? He would humbly contend, that it was impossible. But further, if they proved, that Restelli had acted as agent to the Milan commission, having their authority for doing so, still it would not be competent for his learned friend to put in the declarations he had made on this subject as evidence. Undoubtedly, it would have been competent for them to put questions to particular witnesses, in order to ascertain what they had done by the advice, and at the instance, of Restelli, and afterwards they might have contradicted his own evidence by calling witnesses for that purpose. But as his learned friends had neither put those questions to witnesses which might have enabled them to have established a contradiction, as they now wished to do, and had not called witnesses, it was most extraordinary that they should

contend, that whatever Restelli had said or done in the course of his journies in Italy and Germany was now to be received as evidence in this inquiry. But it was said, that they had not had time to meet the evidence of Restelli; and this was complained of as a great hardship by his learned friends. This was a most extraordinary complaint. Why, his learned friends had named their own time, and had received every indulgence from their lordships which they had thought proper to request for the purpose of preparing the defence. After choosing their own time, therefore, it was too much for them to turn round, and say, that they ought to be allowed to deviate from the ordinary rules of courts of justice, because they had not been allowed sufficient time. His learned friends differed from each other with respect to the Milan commission being considered as a party in this proceeding. It was not for him to reconcile their contradictions; but he thought they ought to have agreed on this subject before they took the course which they had now pursued.

Mr. *Brougham* begged he might be allowed to say, that his observations upon the difficulty in point of time, referred to the refusal of a list of witnesses. It was that denial which deprived her majesty's counsel of the means of examining Restelli upon this point before.

Mr. Solicitor General said, they might have availed themselves of the permission given them by their lordships, to postpone the cross-examination until they were enabled to enter into it effectually.

Lord *Erskine* said, that their lordships had evidence before them, that Restelli had denied on oath, what was proved to have been done by him. If, then, he had intermeddled—he would not use a stronger word at present—but if he had intermeddled in getting evidence against her majesty, the counsel had a right to inquire into that fact, and it was most important for their lordships. He attended there, from day to day, to do all in his power that the strict rules of law might be attended to as far as, in the situation in which they were placed, their proceedings could be assimilated to ordinary proceedings: but it was essentially necessary that all the light should be let in upon this dark transaction which they could let in. He lamented exceedingly that in this transaction they were at the present moment so much in the dark as to the Milan commission. He meant not to impute unfair means of procuring evidence to the noble lord at the head of his majesty's government; he disdained the idea of any thing of the kind. But when they knew that a commission had been appointed, that examinations had undoubtedly taken place, and that evidence so given originally was afterwards brought before their lordships, they ought to be informed of the origin and character of all this previous proceeding. What light had they upon the manner in which the witnesses became first known, and how they were brought to Milan and examined upon this subject? What light had they upon any step in the proceeding before the case came to their lordships' bar? He, for one, had no light at all upon those subjects; and he ought to know, from examinations, cross-examinations, and every way in which light could be obtained. As to Restelli, now was the opportunity of cross-examining him on points which had not been known before. The question now, therefore, was, how the contradictions to Restelli, or the acts which he had done, could be brought before them. Either their lordships must assent to the request of the learned gentlemen at the bar, or Restelli must be called back, as Majoochi had been. His opinion was, that it would be the better course to call back Restelli. But was there not agency already admitted? Could any thing be clearer proof of agency—and, he would add, of corrupt and profligate agency—than the attempt to get a witness against her majesty, by saying that there were Englishmen at Milan who would see money paid to the witness? Was there a noble lord in that House who did not believe that the agency extended farther than they had traced by any inquiries or statements? If not, who could say, that it was not necessary to have the whole of this profligate proceeding discovered, discussed, and well considered before they formed any judgment upon the evidence in general? Before that was done, they could have no means of ascertaining the truth. When their lordships deliberated upon the general question now at issue, there must be nothing left dark; nothing must remain behind. He perfectly agreed that their situation was very different from that of ordinary trials. That was the great evil of the present proceeding, that it left the ordinary course of justice, and trenched on the ancient constitution of the land. Care ought to be

therefore taken by their lordships, that this evil should not be magnified. Could he have any faith in the case as it stood at present before their lordships? Restelli himself had admitted a corrupt agency—he said distinctly a corrupt agency—from the facts which were already in evidence. He said, therefore, that their lordships must, in some way or other, know further respecting the acts of Restelli: they must know further, or they could not know the truth, or judge with safety in this case.

The Earl of *Liverpool* rose, not to give any opinion upon the question immediately before the House, but to say, that the Milan commission—that was, the gentlemen at the head of it, or rather the gentleman at the head, might be called to the bar. No objection would be made to his being called and examined at their lordships' bar at present, or, in any stage of the proceeding, that might be thought most convenient. This was all he had to observe upon this subject. No objection whatever would be made to giving to their lordships the whole history of the Milan commission.

The *Lord Chancellor* said, that it was impossible for any man who felt as all their lordships ought to feel, to doubt that, after what had passed, the gentlemen of the Milan commission ought to have an opportunity of explaining their conduct. It was not consistent for him to make any observation on the evidence before them, as establishing or contradicting any former evidence; for all the evidence would come to be considered hereafter: but it was not consistent with his duty to give any character, good or bad, to any witness. As to the present difficulty, he would say that it did not at all follow, that, because the answer might prove nothing, therefore the question ought not to be put. To be sure, the legal weight depended on the answer; and so it would be here. If the agent had thought fit to exceed his powers, that would not be the act of his principal; but it might be proper to inquire into it, for other purposes. If the allegation were, that he had offered money, and ten persons should say, that he had done so, the mere fact of having offered money would not become the act of his principals. But if they should say, that he had offered no money, and it should be proved that he had acted as an agent, the principals were not thereby proved to be implicated. Still the question was to be put, and they must take the answer; and for this reason:—if he had said, that he had not acted as agent, and it could be proved by the answer that he had acted as agent, although that would not exclude the whole of his evidence, yet it would be a ground for the judge examining most jealously and anxiously his evidence in other matters. Having said so much, he must now advert to a great deal of the evidence on this point, because they were not now in the situation in which they would have been if no previous examinations had taken place on the subject. The evidence to which he wished to call the attention of their lordships was in pages 410, 411, 412. At the beginning of page 410 were these questions and answers:—

"Did you offer yourself as a witness to the Milan commission, or did those who pay you your pension induce you to go before them, or how? I have not been to Milan for this purpose; but I am settled at Milan.

"The question was not, whether you went to Milan, but were you induced to go to the Milan commission, or did you go voluntarily?—I have been sought after."

Why, this man had no doubt as to what was meant by Milan commission, as appeared by his answers. He was asked again—

"How soon after Riganti spoke to you did you go before the commission?—The day after."

Here was an evident admission of his knowledge of a commission. At the beginning of page 411 he was asked,

"Did you not become a very active agent of the commission?—I was not an agent; they have given me orders only as a courier."

He would stop here to point out a distinction which might not appear important to those of their lordships who were not accustomed to consider how important distinctions sometimes were. It was very important. A person might be very active in procuring witnesses, and yet be very different from an agent; and an agent on the other hand might, in a great many senses, have a quite different name, but in substance act as an agent. Then nothing could be inferred against the principal, unless the agent had his authority for the particular act. His lordship read further through this part of the evidence, to show that there was proof of Restelli having been employed by the commission at Milan. Upon reading the name of Mr. Cooke, his lordship said, that when that

name fell first from his lips, in the course of this proceeding, he must state, that he had known that gentleman for nearly half a century, and knew him to be one of the most honourable of men. A higher character for integrity and honour, he declared upon his honour and veracity, he had never known. There was, then, evidence that Restelli had been employed by the Milan commission; and the question thence arose, whether what he had said and done in that employment was evidence? He submitted to their lordships whether, after so much evidence of his sayings and doings had been given, they would not now hear evidence which they might not hear if the preceding evidence had not been given?

Lord *Erskine* said, that, let the commissioners be righteous as righteous could be, the witnesses might have been corrupted, and that was equally fatal to the inquiry in this case.

The Earl of *Carnarvon* said, that if the charge which had appeared in evidence against the agent were substantiated, their lordships ought not to proceed a step further; but it would become their bounden duty at once to put a stop to this odious, detested, and infamous bill. Their lordships ought not to proceed a single step till they ascertained the nature and character of the agency of Restelli, which, from what had already appeared in evidence, was calculated to throw discredit upon all the witnesses who had been brought forward in support of this proceeding. If the corrupt agency of Restelli were proved, he felt persuaded, that there did not exist one of their lordships who would not say, that they should at once rescue the country from this, the greatest curse that the folly and infatuation of ministers had ever inflicted upon it. Ministers were deeply responsible for putting the security—the existence—of our most valuable institutions, upon the issue of a proceeding, as odious in principle, as it was pregnant with danger to the country; they had done all that in them lay, to bring into contempt and disgrace every institution which the country held sacred, and upon which its future prosperity depended; but if the bribery imputed to Restelli, if the corrupt agency of Restelli, were proved, he believed even ministers themselves would not venture to go on, and sign the death-warrant of the British constitution. He could not consider the question as a dry question of technical law. Their lordships could not, with any consistency, regard it in that light, for they had themselves thrown aside all law; they had resolved to try, what the judges of the land had pronounced to be no legal crime, and which, if it had even amounted to the legal description of treason, could not, from the lapse of time which had intervened, have been legally tried. Upon what principle of policy, they who had entangled themselves in this measure had proceeded at all hazards to endanger the security of the country, he was unable to conceive. They had held up all that was most elevated, he would not say, to the detestation of the country, but they had excited feelings which never could exist without danger in a popular government; they had turned public feeling and public indignation to a channel to which it could not be directed without sapping the foundation of those institutions, of which they ought to have been the pillars and support. Even at this stage of the bill, if the charge against the agents could be substantiated, he believed there was not one of their lordships who would not think, that, by putting a stop to the proceeding, they would do the greatest service even to the advocates of the bill themselves, even to the party supposed to be interested in it, if such a party existed, for he was unable to conceive what party could be interested; though he presumed, from the activity of the agents, that there was a supposed interest in some quarter. He trusted their lordships would interpose in time, and rescue themselves and the nation from a proceeding which would hang like a millstone round their necks, and drag down every thing upon which the security of the constitution, and the prosperity of the country depended.

The Earl of *Donoughmore* thought it necessary to call their lordships' attention to the observations which had just fallen from his noble friend. Upon a dry question, as to the admissibility of evidence, upon which the noble and learned lord had delivered, as he always did, a noble and learned opinion as a lawyer, his noble friend had thought proper to interpose with such a speech as, he believed, had never been heard before upon such an occasion. His noble friend had interposed, as if something particular had occurred in the debate, calling upon him for the display of so much angry feeling; and when the only question before their

lordships was, the admissibility of a particular part of the evidence, he had made a speech upon the whole of the evidence, and had even gone into the principle of the Bill, which had been fully investigated, before their lordships entered upon the evidence at all. He believed there never was an instance of such an opportunity having been taken for making such an appeal to a court of justice pending the evidence upon a trial. His noble friend had urged every topic of inflammation which their lordships had heard, he would not say in that House, but out of that House. He had talked a great deal of the danger in which they would plunge themselves, by the further consideration of this Bill. They had been engaged, for several days, in investigating a subject of the deepest interest and importance; and he was sure there was no person in that House who had not witnessed the proceeding with the most painful feelings. He could not, however, but express his surprise, when, after having patiently heard the greatest part, he trusted, of the evidence, his noble friend, instead of allowing them to come to a grave conclusion after a decent and solemn investigation, started up in the middle of a grave argument, as to the admissibility of a particular part of the evidence, and desired them to put an end to the Bill. He would not trouble their lordships with any argument, because he thought it unnecessary in any sober assembly to enter into an argument upon such an occasion. It was sufficient to have stated the circumstances under which the noble lord had risen, and the idea which he had thrown out.

The Earl of *Carnarvon* explained. His noble friend had entirely mistaken the scope of his observations. What he had urged to their lordships was, that a charge of bribery having been established by the evidence of one person, against an agent connected with the Milan Commission, they ought to suspend all further investigation, till that question was determined, and that if the charge of corrupt agency were proved, it would become their bounden duty to put a stop to the proceeding.

The Witness was again called in.

The question was proposed, and the witness said,

The first time I had conversed with him, I was coming from the states of the pope, and I had a conversation with him in an inn, and afterwards I had conversation with him in other places; but we talked a little upon this subject, and then we talked upon other discourses; and another day we were coming out from the Custom house of Porta Tosa, and I was going out of the ramparts in the street of Circolazione of Milan, and we were then talking about witnesses; he told me that he had gone into my country about witnesses, and then when he was in my country, he went to ask for one witness, and that witness went to ask another, that other went to ask another; then they had drank together; and he has asked them whether they were willing to depose against her royal highness, and then he asked them, will you come to Milan with me; then they breakfasted at the Tredate coming from Cazzone; from Tredate he went to Musoc, there they dined; when they arrived at Milan they went altogether to the inn of St. Clement; when they were at the inn of St. Clement, Restelli told the innkeeper to give them every thing they wanted for their victuals; then afterwards, one after another, he took them before Vimercati, and the other English that were there.

On any of those occasions did Restelli say that he had paid money to any of those witnesses?

Mr. Solicitor General objected to the form of the question.

The Counsel were informed, that they might ask whether Restelli said any thing about paying money.

Did Restelli say any thing about his having paid money? He told me he had kept them seven days at the inn, and paid forty francs; that he had paid them forty francs each.

Was any thing said about their expenses besides? He told me that he had given to all those people that he had brought from my country forty francs, but that to Raggazoni he gave fifty francs, and that he gave fifty francs to Brusa.

Name any more if you can? He gave forty francs to Paolo Ragazzoni, forty francs to Bai Rossi.

Any body else? I think Franco Bai, but I am not sure, because he mentioned them altogether; but he mentioned them with his own mouth; Ambrogio Bianchini, of Leghorn, has also had money.

Mention whether, at the time when money was mentioned, any thing was said of their expenses, as contradistinguished from money given to them? Not for the expenses, but he told me that when he went to my country he employed a chaise, and paid for the posting.

Did he say who paid the expenses of these people at the inn? There were many, all coming from my country, and they were all of them at the inn where they were.

Did Restelli say who paid the expenses at the inn? He said that he paid them in the day the forty francs, and that Restelli paid

the innkeeper, because the witnesses got the forty francs clear.

Cross-examined by *Mr. Solicitor General.*

Where did those persons come from to Milan? They came from Cazzone, my country, and he took them to Milan.

How many miles, altogether, did they travel? Some twenty-eight miles, some thirty miles.

Do you mean that it was twenty-eight or thirty miles to go to Milan? I do.

You have said something about Ragazzoni, where did Ragazzoni go from? Restelli came from my country, and went to an inn, and then he sent Brusa to fetch Ragazzoni from Binago, which is four miles from Cazzone.

When you say it is four miles from Cazzone, do you mean that it is four miles further from Milan than Cazzone? Nearer.

Did he go to Cazzone, in order that they might all go together from Cazzone to Milan? He came with Brusa to Cazzone; they went to an inn, drank together, and next morning they set out all together.

Did Brusa live at Cazzone, or did he live further? At Cazzone.

The witness answered the last question while it was being interpreted.

Have you learned English since yesterday? No; but he spoke very clear; he spoke very clear, he said Brusa era Cazzone.

Do you understand a little English? Nothing; but it was clear he said where was Bruza, Cazzone, Brusa was at Cazzone.

Brusa, in point of fact was sent to bring Ragazzoni there? He was; Restelli sent him to fetch him.

Do you know how long they were going from Cazzone to Milan? A day.

And of course also a day to return? As to returning, they went as they liked, for they had drink, and it was during the winter, and they might have been a day, or a day and a half.

With respect to the grotto, of which you made mention yesterday, how far is it from one extremity to the other; is it more than forty or fifty feet? I do not remember that; I have been in it every day, but I have not paid attention to the number of feet.

Do you believe that it was about forty or fifty feet, according to the best of your recollection? More than fifty; but I can give the measure in bracchi.

The interpreter stated that the witness did not understand distinctly the word used for feet.

Will you swear that it was more than twelve or fifteen bracchi? I will not swear, because I have not measured it; I must swear what I have measured.

Will you swear that, according to the best of your recollection, it was not more than twelve or fifteen bracchi? It is longer in the straight line than from the folding door to the throne.

What have you been paid for coming here? Why, I have not received, but I have made my calculations about my business and about the time I have lost with the engineer Ratti and another gentleman, a doctor or advocate, whom general Pino had sent to make this writing, because my family and my children would not let me go. At Michælmas time, at Milan, people change their houses, and there is much to do for people of my business, and in going away I was obliged to put another man to go on with my business; another man I have sent into the country to attend to my workmen, because my son I could not send, because he attends the business at home and pays the men; and at last I cannot undertake any business because I do not know the time, though they have told me that it will be for about two months; and whenever I cannot take work at this time, I must go without work the whole of the year; this they have calculated, and agreed to give me 2,100 francs.

Besides that, are your expenses paid? They are.

What is the name of the advocate with whom you made this agreement? He has been dictating it, together with Ratti.

What is the name of the advocate? I have told you I have not asked for his name.

Does he live at Milan? He lives at Milan.

Is his name Codazzi? No, the writing has been looked over by this English gentleman, and it was on the following day he asked me whether the writing had been made, and I told him yes.

Was Vassali present at the time? He was not.

Have you met Vassali upon this business? At Milan, yes, after the writing had been made.

Did you never see him before this writing was made, upon the subject of this business? He never meddled himself in this affair.

Where was it you met general Pino? General Pino was at his house, for I worked for him, as the head mason.

Did you see general Pino upon the subject of this business, before you signed that agreement? I have not seen general Pino, either before or after; Ratti was coming down the stairs from general Pino, for he had been with him above; and Ratti told me that he had said to the general, that if I was willing to go, he would take care to make me indemnification for my loss.

Was this agreement, of which you have spoken, made with general Pino, did general Pino undertake to pay? I had not even seen general Pino, he (Ratti) was coming down from the stairs of general Pino.

Who is it that is to pay you this money you have stipulated? Vassali.

At the time you made this agreement, and when you met Vassali, were there other wit-

nesses there, making agreements? No, Vassali was even not present when I was making the writing; he has not the slightest concern in it, except to see that I shall be paid.

You were just asked, who was it that was to pay you? you said Vassali; is that so? Vassali is to pay me.

You have spoken of a sum of money that was due to you from her royal highness the princess of Wales; has that money been paid? She has paid me entirely.

When was that paid? I had been partly paid at the end of January, part in March or April, of the year 1819.

You have spoken of some conversation you had with Restelli, and some meetings with witnesses; was that money paid to you by her royal highness after those meetings? When I spoke to Restelli about this business, I had not been paid by her royal highness.

How long was it after that that you were paid? When Restelli began to talk to me about this business, I told him I had already received part of the money; I had received the money which was paid in January, and then I answered Restelli, that in a short time I hoped to be paid entirely.

How soon after that was it that the money was paid to you by her royal highness? This is a little confusion; I have talked of the month of March, when a part of my account was still due.

How long is it since the last payment was made by her royal highness to you? The end of April or the beginning of May.

In this present year? In the year 1819.

Will you swear, that besides that agreement to which you have spoken, by which you are to receive 2,100 francs, you have not entered into an engagement with any other person or persons to receive any other sum of money? Another sum to receive of five or six franks per day for the family which is at home, but I have made no writing, this agreement has been made by my son; but there is no writing.

With whom was this agreement made, between your son and whom? With the same architect, Ratti.

Is Vassali also to pay that? I do not know whether he has received them; he is to receive them from Ratti; but I do not know whether he has received them.

Besides the agreement, by which you are to have your expenses paid, and the 2,100 francs, and this payment to your son, will you swear there has no promise of any other payment been made, either to yourself or to any member of your family, or any expectation held out? I hope that my time may be considered during the time I am here.

Are you understood rightly, that your son is to be paid five or six francs a day, that you are to receive 2,100 francs, and that your time is also to be paid during your absence? For the loss of my time; for the 2,100 francs are for the loss I may sustain for the time to come.

Are you to be paid daily for the loss of your time? As they have told me, that in a month and a half I may return to my country, I have asked a golden Napoleon a day.

Mr. *Cohen* (whilst the answer was being interpreted.) He has added, "They did not offer it to me."

Though you have not been promised this Napoleon a day, do you not expect to receive it? If they give it to me, I do not refuse it; if they do not give it to me, I do not claim it; but if it is a long time, they cannot refuse it.

Besides these various promises and expectations you have spoken to, has there been any other promise made either to yourself or to any other member of your family, of any reward or payment during your absence? Nothing.

You have spoken of a person of the name of Ratti, is he not by profession an architect? Yes, but he is acquainted with my family, and with my business; nay, this architect is obliged out of the sum that they have fixed for the loss I may sustain, to teach his profession to my son; observe, that in regard of this golden Napoleon, I have been obliged to put another person at Milan, and another into the country, for my son cannot attend them, as I have said before.

Besides the sum you are to receive, has Ratti undertaken to instruct your son? No, he does it as a kindness to my family, because my son is a young man, and he teaches him his business.

Is Ratti to be paid any thing for this? I must recompense him some way or other, for the time he loses; for whenever a person loses his time, in some way or other he must be indemnified.

Have you made any promise to do it? But according to the visits he will pay to the buildings, he will be paid.

Have you made any promise to pay Ratti? I have made no promise, he is not a common man that requires a promise to be made.

Is he not architect to general Pino, and was he not architect also to her royal highness? He was the architect of her royal highness, and is the architect of general Pino.

Are you to receive any other benefit or advantage by coming here? The advantage to send me to my country, that is all.

Do you know that Ratti has been employed to take plans of the Villa d'Este, for the purpose of this proceeding? One day we went together to take the plan of the house; there was the old house, and the new house.

Was not a plan also taken of the Villa Villani? I know not.

Do you know of any other plan being taken by Ratti, for the purpose of this business, except the plan of the Villa d'Este? Only a part of the Villa d'Este, not the whole.

Do you know of a plan of any other building being taken by Ratti, for the purpose of this business, except that plan of a part of the Villa d'Este, of which you have made mention? I know nothing, I have seen nothing.

In that room where the two figures of Adam and Eve were placed, were there not two doors? To come in and to go out.

What was the size of that room across, as nearly as you can recollect; how many bracchi the diameter? The diameter would be from the outside of the bar before me to the third bench, more or less; I do not know exactly, for I never measured it.

Re-examined by Mr. *Williams.*

How many men had you in your employment when you agreed to come to this country? Thirty bricklayers, and thirty-four or thirty-five helpers; now, perhaps, I may have more.

What was the name of the English gentleman you alluded to, when you were talking about coming over as a witness? I do not know the name; I do not recollect the name; a tall man, red, but I do not know his name.

Was it Mr. Henry? Yes.

When you were talking about coming over here, was any mention made of your expenses—what you were to be allowed? No, nothing; I have been speaking with the architect on this affair, but not with him.

Is the sum you have mentioned, or rather are the sums you have mentioned, what Ratti fixed when you spoke with him (Ratti)? Yes, because I asked his opinion, and I told him all my difficulties; because the Englishman wanted to know exactly, being a man of conscience, and desired I would make an estimate, and I told him so.

Did you tell the English gentleman of conscience the sum Ratti had fixed? Yes, he asked me; he made a writing, and I told him so.

Who told you that Vassali was to pay you? The architect Ratti.

You have been asked about there being two doors to that room in which the statues were; was there any cornice to that room to which any work was done at any time? During the time I was in the service of her royal highness I never sent any body to work in that place.

Mr. Solicitor General requested to ask a question of the interpreter, whether pilaster meant a flat column with a capital and a base?

Interpreter.—Pilaster in Italian, signifies any building, any support, which is not a column; so, if I place in the middle of this house, a pile of bricks and mortar to support the ceiling, I call that a pilaster in Italian, of any shape and dimensions, provided it be not a column.

Examined by the *Lords.*

Lord *Ellenborough.*—Do you recollect any pilaster near any door in the room in which the statues of Adam and Eve were? Yes, there are some steps; there is a column; there is a pilaster; one after the other.

Near which of the two doors of the room was that pilaster? At the door of entrance.

Which entrance? The entrance when you go up you find the room with the pilaster.

Then it was not by the entrance from the garden, but by the entrance from the rest of the grotto?

The Witness pointed it out with his finger.

Interpreter.—He seems to point out with his finger the room, and then the pilaster and the column, and so you may go into the grotto.

The Witness made a drawing, which was delivered in.

Is this entrance marked 1, the entrance from the garden, or from the grotto? There is no garden, No. 1, is the entrance to the grotto.

From whence? From the hill from the outside from the road.

When did you hold the conversation, of which you have spoken, with Restelli, respecting the sum due to you from the princess? In the month of June or July or August, in my house, for he was always coming, and we went out together.

In what year? Last year, 1819.

Did not you, in a former answer, say, that the last payment of the sum due to you from the princess was made in March 1819? Yes; for when that conversation took place there was still some due to me, and then afterwards came the conversation about the men.

Then the last payment was not made in April or May 1819? Yes.

Was it, or was it not? It was.

Then when you had this conversation with Restelli in the month of June 1819, of what sum due to you from the princess did you speak? Then I advanced a little; but we were discoursing of something else then; we were talking about men, not about that business.

Do you mean to say that between the month of April or May 1819, and the month of June, another debt was incurred by the princess of Wales to you? No.

At the time of this conversation with Restelli, did the princess of Wales owe you any thing? Before, as I have said, in the month of April and May, she was in my debt, but then when I had with him the conversation about men, and what you do, and what you do not, then nothing was due to me.

When did you hold that conversation with Restelli respecting the 45,500 francs due to you? I have spoken when I came to Milan in March, or the end of February.

In what year? Last year, 1819.

Are you to be understood that the last pay-

ment of the debt of 45,500 francs to you due from the princess, was made very soon after this conversation with Restelli; in the same month? Before, for a conversation with Restelli I always have had; but the conversation which I had was before the payment.

How long before? When they had paid me, and I had a conversation with him, then I told him I had been paid in March.

How long before the last payment of that sum was the conversation with Restelli? I have told, and I repeat it again, in March.

Are you to be understood, that the conversation with Restelli, and the last payment of that sum, took place in the month of March? The payment was made in May; but my conversation took place in March.

At what period in the month of March? I do not know, it was on the day that I came to Milan, when on account of the requisition, I went there to free my son from it.

Was it about the beginning, the middle, or the latter end of March? In the month of March, I do not remember the day.

At what period of the month of May was the last payment? About the beginning I think.

Did you, after the conversation you held with Restelli, make any immediate application for payment? Not from her, but I came back, I went to Pesaro besides.

How soon after the conversation with Restelli, did you make any application? I have said that I saw him at Milan, where I was four days; then when I returned home, I went to her royal highness at Pesaro, and asked for the money, and she paid me; and then I returned to Milan.

Did you ever mention to any one the conversation you had with Restelli? No, because I went away.

When did you first mention it to any one? When I have been asked, I mentioned it.

Did you ever mention that conversation to her royal highness, or any person in her royal highness's suite? After I got my money I could never speak with any body of her royal highness's court.

Did you ever mention that conversation to her royal highness, or any person in her royal highness's suite? No, because I have told you I went to get my money, and she was at Pesaro; and when I had my money, I returned to Milan.

Did you before you got your money, mention that conversation to any one at Pesaro? It was not business to be told to any body, I have told nothing to any body.

Earl of *De Lawarr.*—Could a person standing near or behind the pilaster in the grotto, see the statues of Adam and Eve? It appears to me impossible, but I have made not the observation, but as the room is round, and the statues are by the side, I should think that a person behind the pilaster cannot see them.

Earl *Grosvenor.*—Have you, since you have been in this country, seen any plan of the grotto? I have it in my own mind, because even before I went to the princess, I always went to the grotto.

Was the passage that you speak of, leading to the grotto, a winding passage or a straight passage? If a person goes straight forward, he goes straight forward, and breaks his neck.

Was that passage winding or straight? It is not winding, the walls are undulating, but the passage is straight.

Lord *De Dunstanville.*—You have said that Restelli told you certain witnesses were paid some forty and some fifty francs a piece, and that they continued at Milan for seven days, were those sums paid for the whole time they were at Milan, or was it a daily payment? Once only.

Earl of *Lauderdale.*—What was the amount of the last payment you received from her royal highness the princess of Wales? The half, with the interest, which she paid me.

The half of what? The half of 45,500 francs with the interest besides.

When had you received the other half? The first half was received in my name by Mr. Lodi in the latter end of January, or the beginning of February, because I was out.

What was the largest sum that the princess of Wales ever owed you? The last, because it carried the interest.

What was the largest sum that the princess of Wales ever owed you? The sum was 45,500 francs, but when they paid me with the interest, it came to 49,000.

Have you not stated, that the princess once owed you 145,000? From my account, which had been inspected by the architects Pestagalli and Ratti, I was then creditor 145,000 francs, but the 100,000 francs I had received.

When you had received that 100,000 francs was there any objection made to the charge, and assigned as a reason for keeping back the 45,000? I was in the habit of receiving money every month; every month; every six weeks; and I went to Marietti, and Marietti gave me money; I have received it so many times.

The following Extract from the former Evidence of the witness was read to him:

"The first time that I had conversation with him, I was coming from the states of the Pope, and I had a conversation with him in an inn; and afterwards I had conversation with him in other places; but we talked a little upon this subject, and then we turned upon other discourses; and another day we were coming out from the Custom-house of Porta Tosa, and I was going out of the ramparts in the street of Circolazione of Milan and we were then talking about witnesses; he told me that he had gone into my country about witnesses, and then, when he was in my country, he went to ask for one witness, and that witness went to ask another, and that other went to ask another; then they had drank

together; and he has asked them, whether they were willing to depose against her royal highness; and then he asked them, will you come to Milan with me?"

Did Restelli tell you, that having got one witness, he Restelli went to get another, or that that witness went to get another? Restell said to the innkeeper to send for such a man, and the innkeeper sent for such a man; after this man came, who was Brusa, Restelli told Brusa, "Go and fetch such a man, and such a man, and such a man."

Have you often been at the Villa d'Este? Before, I was always at the Villa d'Este, because I was in the house of general Pino, who was the master of the Villa d'Este; after her royal highness acquired the Villa d'Este, I went there, and remained in the house.

Do you remember any of the paintings on the ceilings in the rooms of the Villa d'Este? Her royal highness had made some ceilings be made; she ordered one to be painted; others had been painted.

Can you state what that painting was? The ceiling was made of small pannels, and in the middle there were some flowers, some medallions, some one thing, some another.

Was there no figure painted on that ceiling? Simply this size (about four inches), because the ceiling was small, made in chiaro-oscuro.

Do you recollect the bath room at the Villa d'Este.

Mr. *Brougham* begged leave to submit, that this question went to open a new case, and not that opened by the attorney-general. He begged to be understood as not objecting to such a course, but merely reminding their lordships, that if they entered into it, and that any thing were said which he might have occasion to answer, he should perhaps have to claim a delay of five or six weeks to bring over witnesses to meet this new case. After answering the case already brought forward, he must really ask for delay if another public prosecutor was to start up with a new case.

The Witness was directed to withdraw.

The Earl of *Lauderdale* contended, that it was competent for any peer to call any witness, during any part of the prosecution, and ask him any question he pleased respecting the conduct of her majesty, and any or every part of that conduct.

The *Lord Chancellor* said, he thought it quite clear that the limits put upon the forms of examination to be observed by counsel did not in any degree restrict the right of any peer to put such questions to any witness as he thought fit, at any period of this inquiry.

The Earl of *Lauderdale* said, that it was competent for any peer to do that, without being called a public prosecutor.

The Earl of *Darnley* remarked, that he was interrupted yesterday, and by the very noble earl who spoke last, in a material part of a course of examination, which he thought, if he had pursued it further, would operate rather favourable for the interest of one of the parties in this case —the accused. He had yielded to that interruption, and refrained from pressing his questions to the witness. Their lordships, on this occasion, should recollect that they had taken upon themselves the anomalous functions of judges, jurors, and legislators. He had always understoodit to be the duty of a judge or a juror to lean to the side of mercy, and in favour of the accused. Keeping in mind this understanding, he could not refrain from taking this opportunity of remarking, that, notwithstanding what had been said by some of their lordships, of dignity and decency, of which he had heard so much, there were some to be found who appeared—instead of being impartial judges, and disposed to lean to the side of mercy—to have feelings of an opposite character.

Lord *De Dunstanville* condemned the introduction of irrelevant remarks, calculated to lead to altercation.

The Earl of *Darnley* resumed, and said that he did not mean to accuse any particular noble lord of partiality; but most certainly, generally speaking, he was sorry to find a disposition now and then manifested, which did not, in his judgment, appear calculated to sustain their lordships dignity and impartiality. For his own part, he was determined to discharge his duty fairly and impartially, with a proper disposition to lean to the side of mercy, the propriety of which he hoped others would feel as strongly as he did in the discharge of his duty, though he was astonished to find some of them did not.

Lord *Redesdale* complained, that the concluding assertion of the noble earl was as strong as that with which he had set out. Now he hoped that he should be found to act as impartially in the discharge of his duty, as the noble earl. He was very sorry that any thing should have occurred at any period of the investigation to induce the noble earl to make the remark which he had made; but he must say, that it applied, if at all, as much to the opposite side of the House as to his side; indeed more.

Lord *Holland* was as anxious as any body to see their lordships abstain from altercation. He begged the learned lord would not take their defence under his charge; for, if his mode of defending the House against the charge of partiality was by imputing to his opponents unfair, unjust, and illiberal proceedings, it was the most unfortunate defence against partiality that he had ever listened to. It was wrong, he well knew, to impute improper motives to any noble lord; but he hoped they would not feel hurt at an observation which he was going to make—namely, that both parties were as partial as they possibly could be. Nobody could doubt that any noble lord possessed the right of calling up any witness, who could, either directly or indirectly, give testimony respecting the bill. Neither could any body doubt that to such a witness any question could be put by them, even though in its nature it were not strictly legal. But his noble friend (lord Lauderdale) had been the first to take objections against evidence which was not so, and the thanks of the House were due to him for so doing. And therefore any party, or any of their lordships, had a right to object to the putting of questions leading to a new inquiry. In point of candour and substantial justice, which was their proper guide on this occasion, if any of their lordships thought that he could bring forward evidence calculated to elucidate any circumstance, either on behalf of, or against the Bill, which had not been brought forward by counsel, it was fitting that such circumstance should be stated to the House; and afterwards inquired into; but if a new inquiry were proposed, then their lordships ought to pause, and to consider whether they ought not to instruct the attorney-general to institute it, because it would be a fundamental violation of justice, that the judges, after the evidence was closed, should examine fresh evidence themselves, without allowing the parties to the Bill to enter into a cross-examination of it. He did not mean to dispute the right of his noble friend to put the question which he had asked; but he thought he ought, in candour, to have informed the House, that he had new matter to introduce, and to have asked their lordships leave to introduce it. He could wish his noble friend to withdraw the question altogether; but if he would not consent to do that, then counsel should have a right to cross-examine upon it, and to ask for delay if they thought delay necessary, in order to obtain grounds for cross-examination. Now, a word as to the expression "public prosecutor." He could not say, that he did not feel sorrow when he heard their lordships called public prosecutors; and that sorrow was not at all alleviated, by finding that their lordships did really stand in that situation. For in point of form, who were the prosecutors except their lordships? The bill had been brought into parliament in consequence of the advice given by a secret committee of their lordships; and the feature which rendered it so particularly hideous was this—that those who sat upon it, sat in the collective capacity of prosecutors, judges, jurors, and legislators. In that anomalous position they were then placed; and if it sounded harsh to the ears of any of their lordships to be told so, he could only say

——"Pudet hæc opprobria nobis
Et dici potuisse et non potuisse refelli."

The Earl of *Lauderdale* thought that his noble friend had known him long enough to be convinced that he was the last man in the world to feel hurt in the smallest degree by any thing that could be said or done towards him. He was himself in the habit of using strong expressions, and therefore made allowance for others who used them. There was one thing that made him indifferent to what was said of him; namely, the feeling that he was doing what was right. That feeling he had always enjoyed during the course of his life, and never more than during the present proceedings.

The Earl of *Darnley*, in explanation, said, he did not mean to use the term harshly. Strictly speaking, the noble earl who brought down the papers on which the proceedings were founded, was the prosecutor. But no one, not even the most fastidious person, could find fault with the conduct of that noble earl during the whole of these proceedings. What he meant to say was, that he had noticed, during these proceedings, rather an over-zeal in the cause of an airy personage in this case—a person who was not here nor there—who was known to nobody, and yet who existed somewhere. If their lordships indulged in any such zeal, it would be impossible to discharge the high and important duty imposed on them with impartiality.

The Witness was again called in.

The following Questions were put, at the request of Mr. *Williams.*

Was the pilaster of which you spoke, on that side on which the men were at work on the cornice, or on the opposite side of the room? The opposite side.

When you spoke of the persons employed by you, did you confine your answer to the workmen employed at Milan, or had you any others under your control besides those? Some are in the town, some go out, some go here, some go there, some must work, and some must direct.

How many had you under you, when you were at work at the Villa d'Este? Before the long journey, there were forty or thirty-five bricklayers, besides the helpers; after the long journey, and after I had made the agreement and the contract for the other building, after I had given the estimate, that the whole was to be done in six months, I had under me two hundred and three hundred.

The Witness was directed to withdraw.

Mr. *Brougham* desired to know whether Restelli was forthcoming.

Mr. Attorney General desired to know whether the counsel of her majesty wished to examine him as a witness.

Mr. *Brougham* stated, that he did wish to call Restelli; but that he was not in his corporal possession.

Mr. Attorney General submitted, that if the attorney general of the Queen wished to call Restelli as a witness, he must take the usual steps.

The Counsel in support of the Bill were asked whether Restelli was in this country.

Mr. Attorney General answered, that he had been sent as a courier to Milan.

Mr. *Brougham.*—Then he has been sent as a courier or agent to the Milan Commission. I therefore shall not call him.

Mr. Attorney General said, that Restelli had been sent to Milan with dispatches, under the idea that he would not be again wanted. As soon, however, as that circumstance had come to his knowledge, supposing that Restelli might be wanted, he had sent a courier to desire his immediate return. If his learned friend had said, that he would cross-examine him in the course of the defence, and if he had not rejected the allowance of time which had been offered him by their lordships, Restelli might have been present at this stage of the proceedings. If his learned friend had wanted Restelli, it was his duty to have communicated the fact to him, or to have got an order of their lordships, compelling his attendance. No hint had, however, been conveyed to him that Restelli was wanted. Their lordships had heard the cross-examination, and he put it to them, whether, on that cross-examination, the questions which his learned friend wished to ask could be put? At any rate, if Restelli was his learned friends witness, he must procure his attendance as he could.

Mr. *Brougham* said, he could not have foreseen the necessity of calling Restelli as his witness, until the examination which had just concluded had taken place. When the adjournment took place, the attorney-general or his agents—for agents he had, and active ones too—must have seen from the nature of his cross-examination, that he was laying the foundation of contradicting Restelli. It was, therefore, the duty of the attorney-general to have kept him here until he (Mr. B.) wished to re-cross-examine him. But if there was any one thing which the agents of the Bill ought not to have done, it was that of sending Restelli out of the country, in order that he might continue his operations as the agent of this——of this Milan Commission.

Mr. Attorney General said, that one reason why Restelli had been sent out was, that he had been a courier before. He had brought several of the witnesses to this country. There existed in Milan a great anxiety for the safety of those witnesses, who were in this country, and in order to satisfy the anxiety of their friends it was thought advisable to send Restelli over with letters from the witnesses to their friends, to assure them that they were safe and unhurt. It was impossible that he could suppose that his learned friend intended to call Restelli as his witness, after having seen that he intended to contradict his testimony. But now, it appeared, that his learned friend intended to call the witness, whose testimony he had impeached, in support of his side of the case [No, no!]. If his learned friend had thought proper to secure the attendance of the witness, he might have taken the steps necessary for that purpose.

Mr. *Brougham* would not say a word in reply. If the witnesses were allowed to depart out of the country pending the proceedings, there was an end of the security which their lordships thought they possessed, that no perjury should be committed with impunity at their bar. Was he obliged under such circumstances to go on with this case.

The Counsel were directed to withdraw.

Lord *Holland* said, he rose to speak in behalf of their lordships, in behalf of justice, and to state, that the facts which had just come out at their lordships' bar were of a most monstrous nature. Their lordships would recollect, that at the commencement of these extraordinary proceedings, a noble lord rose, and most pertinently and solemnly observed, that under the peculiar circumstances of this case, persons would be called as witnesses, from a foreign land; persons of whom the accused was ignorant—of whose relations, condition, habits and characters, the judges, the accused, or the counsel, could know nothing. That it was possible, nay probable, under such circumstances that perjury might be offered at their lordships' bar. It was then asked, what security was to be given to prevent or punish such conduct, and whether there ought not to be a security similar to that existing in our courts against such an occurrence? On that occasion, the noble lord opposite rose, and with great appearance of candour, said, that it would be extremely difficult, according to the constitution of this country, to adopt any compulsion to make those persons remain in the country: but that he would do every thing in his power to secure full justice to the accused, and to protect their lordships from fraud and perjury. He had heard in the lobby of that House —he had heard in various parts of the metropolis—he had heard from various classes of people, from the highest to the lowest—much commendation bestowed upon the noble earl for the manliness of that declaration. But what now appeared to be the case? Why, it appeared that out of those men who had been dragged to the bar of the House, and some of whom had probably been bribed, it appeared that that very man who had given the most revolting and disgusting testimony, not only had withdrawn, but had been actually sent out of the country as soon as notice had been given that his testimony was to be impeached. "Gracious God! (exclaimed the noble lord), can your lordships—I ask it in the name of common sense and common feeling—can your lordships suppose that, after such a proceeding as this, great as is the reputation of your lordships, great as is the character of this House, which I have always been eager to uphold by every means in my power—can you suppose that we, who are subject to human failings and human infirmities, can stand in safety when opposed to the suspicion and the odium which such a proceeding must cast upon us? What is the case, my lords? Here is Restelli, who was employed, by his own confession, as courier to the Milan Commission—here is one of the witnesses who stated the most disgusting and revolting fact that ever was mentioned in a court of justice—here is this man, who is one of that description, regarding whom you were told that every step should be taken that could be taken by the limited authority of this government (and there are some who wish that it were not so limited), to prevent them from being withdrawn from justice;—here is this very man, I say, upon whom suspicion now rests that he has been engaged in suborning witnesses for this prosecution, not merely escaping, but sent away by the very persons who produced him as a witness. If your lordships submit to be dragged through the mire in this manner—if, after having solemn promises made to you, you permit them not only to be evaded, but even to be counteracted by those who made them, then are your proceedings a mockery and a burlesque. You will taint, not merely your present proceedings, but all your future measures; you will taint this branch of the legislature, and will involve the country, already reduced to great distress from having blindly followed the counsels of these self-same men upon other points, in still greater distress, and will place its institutions in the utmost jeopardy and danger." He therefore said, with his noble friend (lord Carnarvon) who had made such a solemn appeal to them that morning, that this matter ought to be set right, or that, considering all these circumstances as forming a *prima facie* case of the existence of a conspiracy to pervert justice, they would do well to get rid of the disgust and fatigue of this odious proceeding altogether.

The Earl of *Liverpool* thought that, after the speech of the noble baron, he had a claim upon the indulgence of the House, and he would, therefore, ask their lordships whether, without any explanation of the circumstances, the attack which had been just made upon him was justified by the facts of the case, or by any thing which they knew of his character? He would appeal to their lordships

whether, when he gave an assurance to the House, it had not always been his practice to see it carried into effect? and he would defy any noble lord to show that he had at any period of his public life held out an expectation which had not been fulfilled. The attack upon himself he would thus repel; and, with regard to the rest of the case, he would now proceed to state, that the noble baron had given a most erroneous, fallacious, and inflammatory view of it. He was ready to admit, that it was the duty of those who conducted the Bill to secure, as far as possible, the continuance of all the witnesses in the country until the close of it. He was ready to admit, that the sending away of Restelli was highly blameable in the quarter that authorised it; but, admitting this, he must, in the first place, acquit himself of all knowledge of that transaction; and, in the next place, he must assure them it was as unknown to the attorney and solicitor-general as to himself. He would ask their lordships, then, if this circumstance authorized the suspicion that a conspiracy existed to pervert justice? What was the case? Restelli had been employed as a courier in bringing to England the witnesses for the bill; and upon the adjournment of their lordships for three weeks, it had been thought, by one of the agents for the bill, that certain services which were to be performed at Milan would be better performed by Restelli than by any other person. He had, therefore, sent him thither, under the idea that Restelli would be back before the present moment. He (lord Liverpool) thought the step was an erroneous one. The motive, however, he believed to be good and honourable; and he did not think that the person who had sent Restelli abroad had done it with any intention of withdrawing him from justice. As soon as the circumstance of Restelli's being abroad became known to the attorney-general, he ordered a person to be sent out with orders for his immediate return. That was the plain statement of the case. That was the unvarnished tale which he had to tell; and he left it to their lordships to decide whether there existed any grounds for asserting that a conspiracy was on foot to defeat the ends of justice.

The Marquis of *Lansdown* said, he was perfectly satisfied with the explanation of the noble earl. It was doing but that justice to his high character, which that character deserved, to say so. But, admitting this, he could not help observing that it was one of the additional evils of the present proceeding, that it placed men like the noble lord upon the necessity of making such an exculpation. And now he would beg to call their lordships' attention, after having done justice to the noble earl, after having fully acquitted him and the administration, of which he was the head, of any participation in this transaction;—of this criminality, he would say, if it came to be proved,—he would call upon their lordships to consider the influence which this circumstance must have on the case of the illustrious lady who stood accused at their bar. If the bad, the wicked, the despicable agents employed under this bill had betrayed their employers—if they had taken upon them to act without the knowledge of those employers—was it fitting that they should visit upon the head of her majesty the baseness of those agents? Was it fit that that conduct which their employers had found it necessary to come forward and disown, should be allowed to operate to the prejudice of her majesty's case? He entreated their lordships to consider the importance of adhering to the rule which they found themselves bound to make at the outset. He was not speaking to the cross-examination at the bar by counsel; he alluded to that understanding to which the House had come for its own satisfaction, that all the witnesses examined should be forthcoming whenever it should be found necessary to recall them. Was that rule of no significance, was it of no importance? Their lordships had witnessed an example of the importance of that regulation, in the recalling of Majoochi a second and a third time; they had also an example of it in the recalling of the witness Carrington, which was very properly done by the noble lord at the head of the Admiralty. The re-examinations of those two persons were of great importance. The witnesses, when called for, were brought and examined at once. What would their lordships think of the importance of having Restelli at once brought forward, and without notice confronted with the evidence given against him this day; but when that witness was called for, when his immediate examination was of the utmost importance, it was found—not that he had disappeared—but that he had been sent out of the country by the party who

had called him as a witness. And when the attorney-general was called upon to explain this, he gravely stated, that, forsooth, the people at Milan were not satisfied with the situation of their relations, the witnesses in Cotton-garden; that they could not be satisfied of the safety of their friends, until they saw Restelli; that Restelli was, in fact, sent over to these persons as a sort of certificate to prove that their friends were safe and unhurt, and giving good round evidence at the bar of that House. When he heard this excuse made, he felt that there could be no good reason given for that act, which the noble earl had so candidly come forward to disavow. It was, however, incumbent on their lordships to do all in their power to repair the error; they could not, he feared, fully repair it. What effect it would have on the proceeding before them, he could not venture to say.

The *Lord Chancellor* claimed no more credit than was due to him when he said, that he knew nothing of the sending Restelli out of the country. He confessed that it was a most ill-timed and ill-judged proceeding. But the well-known character of the person who had done it, was a proof that it was not an error of intention, but merely an error of judgment. If it was an error of the former kind, strong language might properly be applied to it; but if it was merely founded on mistake, he thought that the opprobrious terms which had been used did not apply to it. But it was said, that great injury must be done to the illustrious accused. He allowed it. But what was the course which it was now proposed to adopt? To call Restelli to the bar? That course, unfortunately, could not be complied with; and he thought that considerable allowance ought to be made, in the consideration of her majesty's case, in consequence of that circumstance. Their lordships must therefore act upon this principle, that the examination, when gone into on a future day, would not be so beneficial to her majesty as it would be at present; and when they recollected that circumstance, they must give her the benefit of it, in the language of the law, "liberally and largely." The noble marquis had said, that it was their duty to repair the injury which they had done her majesty; but, it was beyond their power to do it. What, then, was to be done? Could they close the proceedings at that stage? There was no man who could put his hand to his heart and say that this could be fairly and impartially done. For the sake of her majesty they ought not to do it. How, then, were they to proceed? Were they to go on, and, as the witness could not be called now, call him at a future stage of the proceedings, making, as he before said, in a judicial manner, every allowance for the circumstances of the case. This, he conceived, would be the best mode of proceeding.

The Earl of *Carnarvon* fully agreed with the learned lord, that there was nothing which they could do that would repair the injuries they had done to her majesty in the course of this investigation. What, then, was the only remedy left them to adopt? What was the only step which they could take, to do her majesty justice? It was, now to put an end, once and for all, to this base and infamous proceeding. How did the case now stand? Her majesty's defence was interrupted, in a manner the most unwarrantable, and the most extraordinary; and, by the admission of the learned lord himself, she could not be restored to the situation in which, if the witness had not been sent away, she would have been placed. This occurrence he did not attribute to the noble earl, but to the agents of the government. Here he called on them to stop. Had not they long enough outraged public feeling, disgusted common sense, and disgraced the country, by hearing at the bar of the House, from day to day, that abominable and disgusting ribaldry, which had been resorted to on this occasion, he knew not for what practical purpose? They ought to consider, whether they were not, by their proceedings, rendering themselves objects of execration to every Englishman, and of contempt to all the rest of Europe? How was it that the learned lord proposed to remedy, as well as he could (for he admitted that no perfect remedy could be discovered), the default of those with whom the present subject of complaint originated? There was proof, that an extensive system of subornation of perjury existed, which they were prevented from probing to the bottom. Well, therefore, might the learned lord admit, that substantial justice could not be done. With whom had this gross error originated? Certainly not with her majesty's counsel, but with his majesty's ministers; or, if not with them,

with some department connected with the prosecution. The case, if, indeed, it could be farther disgraced, or rendered more odious, was, by this last circumstance, reduced to the lowest pitch of infamy. Let their lordships consider well, that if there existed in the other House of Parliament, any portion of the spirit which animated the country—if the members of that House had any concurrent feeling with the great body of their constituents—the bill would be defeated there, should their lordships persist in passing it on such evidence as had been adduced at their bar. If they should send it farther—if they should send it to the other House of Parliament—it would tend only to keep up that agitation by which the country had so long been distracted, and which threatened to bring into discredit, nay, to overthrow, the most glorious institutions in the world. These sentiments did not occur to him on the spur of the moment; neither were they the offspring of any angry feeling: they were called forth by the temper which he observed amongst their lordships, and by the feeling with which the public mind throughout the country, was evidently actuated. If, for a long time, he had abstained from addressing the House on this subject, it was wholly occasioned by deference to their lordships. He would certainly take the sense of the House on the motion he was about to propose; and he implored their lordships, for the honour of the country, for the honour of that House, for the honour of human nature, to proceed no farther with a measure, which, if urged forward, must inevitably produce evils, from the baleful effects of which nothing could save them. The noble lord concluded by moving, "That this Bill be read a second time this day six months."

The *Lord Chancellor*.—I rise merely to explain. I never could enter this House again, with quiet to my mind, if I admitted, as the noble earl asserts, that this House could not do substantial justice. I am decidedly of opinion, that it can do substantial justice. Allowing liberally and largely for the circumstance that has happened, so far from being unfavourable to the individual, it may turn out, on the contrary, to be extremely favourable to her majesty. It is impossible, therefore, to say that the House cannot do substantial justice.

Lord *Ellenborough* understood his noble and learned friend to say, that a great difficulty existed, and that it would be impossible to place her majesty precisely in the same situation as that in which she would now stand, if it were practicable to call Restelli to their lordships' bar; but, he had added, that when their lordships came to consider the state of the case, they might, by making large and liberal allowances, if not entirely place her majesty in the situation in which, under other circumstances, she would have been placed, be still enabled to do substantial justice, and to obtain that object at which they all wished to arrive. Such being the situation in which they were placed, what was the proposal of the noble earl? It was one entirely contrary to all justice—fatal to her majesty's character—wholly unsatisfactory to the country, and in every respect opposed to that course which he thought it was their lordships' bounden duty to pursue. In considering this bill, two questions naturally arose in the mind of every person. One question was, whether her majesty was guilty or not guilty? Another question was (and one, he apprehended, which was totally distinct), whether, on the evidence adduced at their lordships' bar, they would pass this bill? He conceived, from what had fallen from the noble earl, when he introduced this measure, as well as from what had since been said, that their lordships never would pass this bill, unless on such evidence as must carry conviction at once to the mind of every reasonable man in the country. This being the opinion he had formed, he had never indulged in the apprehension which seemed to fill the mind of the noble earl who had recently addressed the House. He always thought that their lordships would never pass this bill, unless on evidence so clear, so perfect, and so convincing, that it would be contrary to the honour and character of the other House to decline passing it, when that evidence was laid before it. The case might, however, be extremely different. It was possible that such a defence might be made out at the bar as to induce their lordships not to pass the bill, although it might not be such as to induce them to consider her majesty entirely innocent. For the cause of truth and justice, therefore, he entreated their lordships to hear the whole of the case, and not to break off in the middle of it—not to adopt a proceeding that might possibly leave on the mind of every noble

lord a moral conviction of her majesty's guilt.

The Earl of *Darnley* was of opinion, that before they came to any vote on the proposition which his noble friend had made, her majesty's counsel ought to be called in, and asked whether the absence of the witness Restelli would be injurious to their client's case?

Earl *Grey* said, he never in his life entered on a question with more reluctance, or felt a greater degree of difficulty, than he experienced on the present occasion. Undoubtedly, if he had looked at the subject precisely in the same way that his noble friend had done, he should have expressed, with all the warmth of his noble friend, his indignation at the extraordinary circumstance that had occurrred; for he must say, that by the explanation of the noble and learned lord at the table, it appeared that they were now placed in a situation in which, according to the noble and learned lord's own statement, substantial justice could not be done. What was the statement of the noble and learned lord? He stated, that by the abduction of the witness at the present moment, and the impossibility of producing him now, an injury might be done to her majesty's defence, which it was out of the power of that House easily to repair. Why then, if that was the situation of the case, if the Queen was deprived of those means of defence which, if resorted to at that moment might be rendered effectual, and if the necessary means of defence were not fully supplied to her hereafter, he would ask, whether it did not follow, as a plain and inevitable consequence, that the defence was, to a certain extent, injured, and that substantial justice could not be done? Under these circumstances, he felt himself placed in a situation of very great difficulty; he felt all that had been stated with respect to the disadvantage of interrupting the defence before this witness was called; and he should perhaps be better satisfied if his noble friend did not persevere in his motion. But feeling that the House was placed in a most unlooked-for situation—feeling that there was no possible remedy for the act committed by the agents for the prosecution—if he were asked on that ground, whether the proceeding ought to be continued, her majesty being deprived of those means of defence which ought to be afforded to her, he should, however reluctantly, be obliged to assent to this proposition. Let their lordships consider the difficulties into which they were plunged. In the first place he would direct their attention to the contradiction of this witness's testimony. No man could say, that if he were called up immediately after what had been disclosed to their lordships, his examination would not be materially different from what it would be at any future period, when information had been supplied to him, with respect to all that had passed on this subject. Thus an irreparable injury would, in this instance, be done to the Queen. But there was more injury than this. His noble friend had stated, perhaps a little hastily, that subornation of perjury had been proved. He would not say that; but he would say, that a strong statement had been made by the witness recently examined, which must show that the individual who had left this country had at least been engaged in endeavouring to suborn other witnesses. What had they heard this day at their lordships bar? They were told that Restelli went to a witness and offered him a certain sum of money for his evidence: that that witness went to a second, the second to a third, and so on: to each of these witnesses a similar proposition had been made. He (Restelli) did exactly that (and he hoped he should not be chided for making any observation that seemed to reflect on the evidence which had been given), but he did exactly that which was likely to influence those witnesses who deposed to the story of Adam and Eve, and other circumstances of a similar nature—points which struck him at the moment as having been obtained in this improper manner. He was not charging a conspiracy on the noble earl opposite, but, when such a suspicion was raised as had been excited by the evidence given that day—namely, that if the witness who had quitted this country were examined before any information relative to what had just occurred could be afforded to him, it would render the defence of her majesty complete and triumphant over the worst conspiracy that ever was formed to ruin the character and destroy the honour of an individual; and if the circumstance of delay rendered it impossible, as it did, according to the admission of the noble and learned lord, that the examination could be pursued effectually and satisfactorily hereafter—then he must contend, that, in consequence of what had happened, the

House was placed in a situation in which substantial justice could not be done; and if his noble friend persevered in his motion, it must undoubtedly receive his assent; more especially when he coupled the circumstance with the appearance which the evidence had assumed in the course of this proceeding.—Thus far he had stated his sentiments with respect to the motion then before the House; he would now offer a few observations on the fact itself. It was impossible to hear the fact stated, that this man was withdrawn from the possibility of immediate examination, without reprobating the measure in the strongest manner. The noble earl opposite had done no more than justice to himself when he condemned this proceeding by applying to it the mild and gentle appellation of "ill-judged." In speaking of it, he would not use such a term. It was not only ill-judged, but he would say, that it was most iniquitous. In such a case, it was of little use to speak to the characters of those who were implicated. They could not but be aware, generally, from their professional knowledge, and their knowledge of this case, that it was proper and expedient to keep witnesses of this sort in this country, that they might be forthcoming in case any necessity should arise for examining them more minutely. But if ever there was a witness who from the particular nature of his testimony in chief, as well as from the particular nature of the facts disclosed on his cross-examination—if ever there was a witness whom every person acquainted with proceedings in courts of justice must have seen the necessity of examining still further—Restelli, he would say, was that witness. The noble earl had observed, that he trusted his known character would remove from him any suspicion that he had taken a part in this proceeding. He gave to the noble earl all the weight and credit which his high character deserved; and when the pledge was given to that House, by the noble earl, in consequence of a formal statement on the subject, that every thing should be done, as far as he could contribute assistance, to further the ends of justice, by keeping within the country all the witnesses introduced in the course of this prosecution, the House, with that confidence in the noble earl's character which it deserved, gave credit to that assurance, and rested with perfect security on it. But if having given their lordships that solemn pledge, sanctioned by all the weight and authority of his character, the noble earl found himself in this extraordinary situation that those who ought to obey his instructions, and attend to the pledge he had given to that House, and which a sense of duty should have taught them to respect—if those persons were found to have deceived both the noble earl and the House, what possible security could he have that the ends of justice would not be defeated; or what right had their lordships any longer to assume, that the commands of the noble earl would be observed, when they perceived that those agents who ought to act in strict obedience to what he had directed, had, in defiance of the noble earl's pledge, sent a witness out of the country, and rendered it impossible that his examination could be so effectual as it otherwise might have been? But in what situation was the Queen placed by this circumstance? Her majesty's counsel had trusted implicitly to the noble earl's assurance, that the witnesses should not be suffered to depart; but the moment an important circumstance called for the re-examination of one of them, they found that the pledge was nugatory; that no one was answerable for the appearance of the witnesses, that a subordinate agent had sent away one of them; and that in consequence substantial justice could not be done to her majesty. He must say, whatever their lordships might do, whatever course they might be pleased to adopt, that the whole proceeding could not be too strongly reprobated. Looking at its original introduction, taking its details into consideration, viewing all the circumstances connected with it, and marking, most particularly, the circumstances of the defence of this illustrious person, he must again repeat, that it seemed to him that they were placed, by the forfeiture of the assurance which had been distinctly given to them (he meant nothing personal to the noble earl opposite,) in a situation which prevented them from doing substantial justice to the accused party. If, therefore, he was driven to decide on this proposition, whether they should or should not continue this proceeding, he would say, "let it not be continued." The noble lord (Ellenborough) speaking of the mode in which the business was to be decided, had observed, that there were two questions for their lordships decision—one, whether the Queen was guilty or not guilty; the

other, whether the bill should be passed on the evidence that had been adduced; and he added a sentiment in which he entirely agreed with the noble lord, that, in a case of this nature, there ought to be clear, incontrovertible, unsuspicious, and unsuspected, evidence, to induce them to come to a decision against her majesty. But he would state, that, on a proceeding of this peculiar description, a proceeding which the noble earl opposite had recommended and to which he must adhere, with all its circumstances, it was impossible for their lordships to separate those circumstances, so as to give an opinion on two questions. They had arrived at the second reading of this bill, and on that second reading, the first question must be, simply, aye or no—on that point their aggregate opinion must be given—there was no question of an intermediate nature—He had stated thus much, viewing most painfully what had happened, and looking at the debates that had taken place, on or before that day, as nothing more than a strong and powerful illustration of all those evils which he had deprecated from the beginning—evils that had been summed up in a compendious observation, which had fallen from a noble lord on the cross-bench, who had stated to their lordships "that the House were placed in a situation, in which, from their habits, they could not appear to the public to be doing justice."

The Earl of *Liverpool* said, if the fact really were, that, from the circumstance which had occurred, substantial justice could not be done to her majesty, he would agree with the noble earl, that the proceeding should be suspended altogether. But the noble and learned lord on the woolsack did not state that substantial justice could not be done. He had said, on the contrary, that the consequence of the event in question might possibly be beneficial to her majesty. The noble and learned lord exemplified the position in this way, and he considered the reasoning to be correct—namely, that they were bound to give her majesty the full and entire benefit, as far as she was concerned, of all the evidence adduced against the testimony of Restelli. And although it might be possible that his evidence with respect to her majesty could, if doubted, be explained, that still, under the circumstances of the case, such explanation should be entirely put out of the way. Here, therefore, her majesty might receive a decided advantage. Now, how could their lordships put this great cause, which they were engaged to decide, on an issue such as this? He would assume, that some improper proceedings took place at Milan; he would assume, that the Milan Commission had acted improperly; he would do this for argument sake (because he knew the government had authorized no impropriety; and, while he admitted that the fact relative to Restelli was a most serious one, he must observe, that with respect to all the other proceedings of the Commission, so far from any thing improper being proved, the reverse was manifested); but, assuming all this, and looking to the whole of Restelli's evidence, it would be found that the case did not stand on that evidence, but that it still rested on the evidence of others—of some, who had never been at Milan, or who, having been there, never had any communication with Restelli, or any other person of that description. It was, therefore, possible, that such a case might be made out on this evidence, as would induce their lordships to find her majesty guilty of the charges stated in the preamble of this bill. Then, he contended, that the argument of the noble earl was, in this view of the case, completely erroneous; because there was no question whether substantial justice could be done. It was quite clear that it could. Nay, the consequence of the situation in which the defence was placed, by the circumstance complained of, might be, to deprive the prosecution of the advantage of a great body of evidence, to which access might have been had, if this obstruction had not occurred. He would ask their lordships this, and he put the question to them most seriously—whether, with the evidence on the part of the accusation, and the evidence on the part of the defence, as far as it had gone, and considered in all its bearings, it would be possible, consistently with what was due to the character of the Queen, to suspend the proceeding in its present stage? Would it be possible to satisfy the public mind, or to do substantial justice, if the case were now left without coming to any decision upon it? Whatever might be the final determination, whatever fate in the end might befal the bill, sure he was, that the whole case ought to be heard. By hearing the whole of the evidence on both sides, and by that means only, could the House arrive at a just and safe conclusion. He had no difficulty in saying,

that the House owed it to the honour of the Queen and to the honour of the country, not to shrink from the question, whether the preamble of the bill had or had not been established? Without anticipating any future questions that might arise, he thought it right to say, that nothing could be more unfortunate, nothing in his view more ill-judged, than to smother the main point at issue, the guilt or innocence of the Queen, in questions of mere policy and expediency. By some mode or other, the House ought to go to the end of the inquiry, and decide whether the preamble of the bill had or had not been proved. Such was his deliberate opinion of what was due to justice and to the Queen. He had already said, that if he thought the ends of substantial justice would be defeated, he should agree with the noble lord; but he wished to say one word on what had fallen from the noble earl who spoke last, as to the flagitious conduct of the individual who sent Restelli to Italy. He allowed that it would have been a flagitious act, if the object of it had been to withdraw the witness from justice, but he (lord Liverpool) was most conscientiously convinced that the gentleman who had been the occasion of it had had no such intention, but had felt convinced that the man would have returned before the House arrived at the present state of the proceeding [Name, name!]

The Earl of *Lauderdale* said, he was very anxious to state his feeling upon what had passed in the course of this discussion, and upon the situation in which the House was placed. He must, in the first place, observe, that the motion of the noble earl arose out of a complete misrepresentation of what had fallen from the noble and learned lord. He had never said, and he (lord Lauderdale) had never understood him to say, and could not conceive how any man could have supposed him to say, that it was impossible that substantial justice could be done to her majesty because Restelli was withdrawn. The proposition was so absurd in itself, that it was impossible that the noble and learned lord could have uttered it: on the contrary, he had urged, that it was not improbable that the circumstance might turn out advantageously to the Queen. And, what was the nature of the proposition to rectify this supposed injustice? It was this—that after the whole of the evidence in favour of the bill had been heard, and half the defence had been gone through, the House should stop short and proceed no farther. Thus, the remedy would, in truth, be the grossest act of injustice that had ever been suggested to any tribunal. It had been formerly urged, that even the slightest delay between the charge and the defence was an atrocious proceeding, and it came from the same individuals who now recommended that the Queen should be permitted only to go through half the case that was to vindicate her in the eyes of the world and posterity. All men were bound to consider her innocent until she had failed in disproving her guilt; but here it was recommended, that her majesty should be deprived of the opportunity of doing so. But, their lordships were bound to consider, not merely the interests of the Queen, but the interests of the country; and, suppose it were asked why the proceeding was stopped, why the Queen was permitted only to be half defended, what would all the countries of Europe, or any independent man on the face of the globe, think of the answer, that this crying injustice had been done because an Italian courier had been sent to Milan? His noble friend (the earl of Carnarvon), on the absence of this Italian courier, meant to found his charge of conspiracy; but he put it to their lordships, whether there was one among them who believed that Restelli's absence was the consequence of any deep-laid conspiracy? Was the absence of this courier any proof of its existence? or would this circumstance be assigned as a reason, why a stain should continue upon the Crown of England, which, if the opportunity were afforded, might perhaps still be shown to be pure and unsullied.

The Earl of *Morley* said, he hoped to be spared the pain of coming at that moment to a decision on the important question submitted to them. The report of the secret committee was this—that it was important to the honour of the country that the truth or falsehood of the charges against the Queen should be fully investigated, and that it was the opinion of the committee, that the best mode of proceeding was by a legislative measure. After that unfortunate necessity had been imposed on them of ascertaining the truth or falsehood of those charges, he knew of no mode so satisfactory as by the machinery of a legislative measure, without intimating in the most remote

way what it might be fit for them ultimately to do in their character of legislators. There would not be the slightest inconsistency in proving the preamble and negativing the enactment of the bill, which struck a blow, in his opinion, at legitimate monarchy. It was, he thought, highly necessary that it should be declared whether it was meant by the bill to affect the Succession or not. Their business, however, now was, to ascertain the truth or falsehood of the charges, and he humbly entreated the noble earl not to press his motion to a division. He did not mean to magnify or diminish the injury which was done to the Queen by the absence of Restelli; but he thought that on every principle of justice, the rest of her defence should be heard.

Lord *Alvanley* said, that if the person who had sent Restelli out of the country were found to be connected with the Milan Commission, he should not be easily persuaded that it was a mere error of judgment that gave rise to that act.

The Earl of *Liverpool* said, the person who had sent away Restelli was Mr. Powell.

The Earl of *Carnarvon* said, that he wished the following question to be submitted to the counsel for the Queen; whether the immediate examination of Restelli was material to their case? He was anxious, in the first instance, to hear the opinions of the learned gentlemen upon this point; and he should then be better enabled to judge what step ought to be taken. Though nothing, not even the speeches of counsel, could alter his opinion, that, for the sake of the country, and for the sake of the House, it ought not to proceed further in this inquiry, yet he felt bound to submit with deference to the opinions expressed by noble lords more experienced than himself. For this reason, he should not press to a division the motion he had offered; though he was convinced that public feeling had long ago had enough of the proceedings of the House upon this subject. The first hour the public should learn that their lordships had determined to quash this business, it would be hailed by an unanimous acclaim of joy and gratitude from one end of the country to the other.

The Earl of *Blesington* felt it necessary to make a few observations, It had been very properly asked, who was the individual who had sent Restelli to Italy; and the noble earl had avowed, with that candour which distinguished him, that it was Mr. Powell. Now, he had the honour to be acquainted with that gentleman, and he should be sorry, because he was a Milan commissioner that he should be supposed to be a party to any conspiracy against the Queen. He regretted as much as any man that Mr. Powell had had any thing to do with the Milan Commission; and sure he was that he had not willingly subjected his conduct to the animadversion of the House. He concurred in thinking, that it was highly improper, under all the circumstances, to send Restelli to Italy; but he was satisfied that no undue motive existed in the mind of Mr. Powell.

Lord *Holland* owed it to himself and to the noble earl opposite, to assure the House, that at the time he made his remarks, and before the noble earl had spoken on the subject, he was satisfied that the noble earl was neither directly nor indirectly a party to the transaction. He founded this conviction upon the character he entertained of the noble earl; for though, on many occasions, they were in political hostility, he was ready to acknowledge that on neither side of the House did he know any man less capable of doing what was dishonourable or unbecoming. If he had thus thought before the noble earl had spoken, his opinion was more than ever confirmed by the manner in which the noble earl had met the question. While, however, he acquitted the noble earl of the slightest participation in any thing like intrigue or conspiracy, his feelings upon the subject remained unaltered. After the disclaimer of the noble earl, and a few minutes calm reflection, he still felt bound to say, that the noble earl, on this occasion and others had undertaken to do more for the House than experience showed he was able to perform. The noble earl admitted the proceeding now complained of to be culpable; but when he gave the pledge that no witnesses should leave the country, he ought to have fairly avowed, that he had no power to retain them, that they might, if necessary, be subjected to prosecution for perjury. If the noble earl had thus confessed that there were certain inferior persons, over whom, in this respect, he had no control, the House would, probably have adopted a resolution very different from that to which it had arrived. It had, in fact, relied upon the assurance

of the noble earl, that he would do his utmost to prevent what had now really occurred. Perhaps the noble earl had done all that was possible in his situation; but what the House required and expected had not been performed. Without cavilling, therefore, about words—whether substantial justice could or could not be done, or whether her majesty's defence was injured—he must say, that the House was placed in a situation which prevented it from inquiring into the allegations of the preamble, with any probability of arriving at a satisfactory conclusion. His noble friend on the cross-bench (lord Lauderdale), who met every subject with good humour, who possessed excellencies of many kinds, and from whom he never differed without regret and diffidence, had contended that it would be the greatest possible injustice to stop in the middle of her majesty's defence. He (lord Holland) confessed that he was made of sterner stuff on this occasion than his noble friend: he was ready, and had been ready from the beginning, to quash this proceeding; and if the motion to-day submitted had been persisted in, he should have given a vote consonant with that opinion. He felt bound to say that the defence had not only been interrupted, but that it was impossible that it could now be continued with the same advantages it had before possessed. In the course of the preliminary discussions it had been asserted by the noble earl (Liverpool), that the mode in which this great question was investigated, was most beneficial to the party accused, under the supposition that she was guilty. This seemed, at the time, a strange kind of panegyric, only intelligible, in its full extent, to those who were so prodigiously anxious for the honour of the Queen, and, at the same time, that justice in mercy should be extended to her majesty. When they said, "Do not stop in the middle of the defence," they in fact meant to deprive her of one great advantage held out by the noble earl in the first instance. His noble friend (lord Lauderdale) had declared, that he never heard of such a proposition as stopping a proceeding of this kind; but had he never yet read of a party to a suit being nonsuited for want of sufficient evidence? He was not well informed upon such subjects; but he begged to ask, if no instance was to be found of a trial being interrupted in a court of justice, in consequence of something improper in the conduct of one of the parties, before the jury was called upon to decide on the main question at issue? It would rather be supposed that the other side were arguing on the analogies of law in France than in England. Here, if a man were accused of murder, and it came out that he was only guilty of a crime of a different complexion, he had the benefit of his plea of not guilty to the greater offence. He had the advantage of a complex proposition, which, if it failed on one point, failed on all. Yet the Queen, in a case of this importance, and after all that the noble earl opposite had said in the commencement, was to be deprived of the advantage of this complex proposition. Much fault had been found, and justly found, with the conduct of the individual who had sent Restelli to Italy; and it had drawn from the noble earl a declaration, that that individual was free from any criminal intention. He recollected lord Thurlow to have said that he would not take any notice of the conduct of persons in office on occasions like this; because, to make observations was to afford an opportunity for a fulsome panegyric, not only upon gentlemen immediately in place, but upon all those incidentally connected with them. This remark had been illustrated to-day; for no sooner was the conduct of the individual who had sent Restelli out of the country called in question, than he was immediately pronounced to be a person of most excellent qualities, who had merely committed an error in judgment. In fact, it might be said to be enough for a man to be employed by government, or to be employed by one who was employed by government, to invest him with all imaginary virtues. Thus persons in office were gifted with all descriptions of good qualities: the gentleman whose conduct was now before the House was a person in office; *ergo*, he was gifted with all descriptions of good qualities. Another point connected with this discussion regarded the Alien bill; and, though he would not now go at length into it, it was obvious that it formed a very material consideration, and that it might be exercised in a way injurious to her majesty's defence. The learned lord had asserted, that, supposing Restelli did not return, the Queen would have all the advantage to be derived from his absence. It ought, however, to be recollected, that Restelli was not wanted, at the present moment, to be examined as to the testimony he

had previously given, but as to the actual existence of a conspiracy against the Queen; whether connected with the Milan Commission, or not, he would not decide. It might, perhaps, be supposed that Restelli, if he were here, would prove the existence of such a conspiracy, and did the learned lord mean to be understood, that if the witness were not produced, it was to be concluded that such a conspiracy really existed? That could not be meant: and yet, if the learned lord did not mean that, he could mean nothing. It was quite clear that, if the formation of a conspiracy against the Queen were satisfactorily made out in evidence, their lordships would throw out the bill. It was thus clear that the ends of substantial justice might be evaded; because Restelli was not here to prove that which, without his testimony would never be inferred. Then arose a question, as to the situation in which the court was placed; and how, under all the circumstances, it was possible to avoid doing injury? It was very true, that if there was nothing in the accusation against Restelli—if he could not establish a conspiracy, or any thing like it—his absence might operate to the advantage of the accused: but if, on the other hand, Restelli could prove that the Milan Commission was connected with a conspiracy against the honour and character of her majesty, and could bring home the charge justice could not be done without his presence. He did not, therefore, stand up for the extension of any indulgence or mercy to the Queen, but he stood up for the court itself: because he did not like to go on in a course which, happen what would, the judges could not lay their hands upon their hearts, and say, "We are satisfied that full justice has been done." If this distressing situation were owing to the laches of the noble earl, he was quite sure that it only arose from an error in judgment. He would not, however, suppose that there had been the slightest neglect of duty on the part of government, and he gave ministers full credit for having done their utmost. Still, the very thing apprehended at the commencement, and against which the assurance of the noble earl was the security, had happened; the course of justice had been perverted, and it was much better to stop altogether than to persevere in a road which could lead to no satisfactory termination.

Earl *Grey* observed, that, as Mr. Powell's name had been mentioned, he ought to be called to the bar to explain the reasons for Restelli's absence.

Then *John Allan Powell*, esq. was called in, and having been sworn, was examined by the Lords as follows:

Earl *Grey*.—Were you employed under the Commission of Milan? I was.

Are you at present the agent in the support of this bill? I am assisting the agents in support of the bill.

Were you present in this court at the examination of Restelli? I was.

State. then, why you sent Restelli on a mission out of the country? I recommended that Restelli should be sent.

To whom did you recommend that? I recommended it at the Foreign office.

Was it at the Foreign office you applied to have Restelli sent on this foreign mission? As a courier.

Did you get passports for that purpose at the Foreign office? I did not.

Can you state who did? I did not.

But you applied at the Foreign office; you recommended he should be sent on this mission? If your lordships will allow me, I will give the explanation; Restelli had been the courier who had conducted a great number of witnesses to Dover; those witnesses had been mal-treated by the populace at Dover; they were afterwards sent into Holland.

Do you speak to your own knowledge when you say they had been ill-treated at Dover? I speak from the information of Restelli. I am stating the motives that induced me to make that recommendation. I learned that various reports were propagated in Italy of the dangers which the witnesses for the bill ran, by coming over to this country. I had heard that reports were propagated in Italy that they had received great personal injuries. I had heard that the families of those persons who were here were exceedingly anxious upon the subject of their relations who were in this country. I had understood Restelli to be acquainted with the greater part of the families of those persons, and I considered that it would be an act of humanity to those relations and friends, that some person who had seen the whole of those witnesses in this country, and who was acquainted with those families, should go over there with letters from the witnesses, and having himself been an eye-witness of their safety here, that he should report to those families what their situation really was, and by that means that he should put an end to the great anxiety which I thought those families must necessarily feel for their friends.

Admitting this to have been your motive, did you not know that by sending Restelli out of the country it would be impossible to examine him here upon the subject of his evidence, if a necessity should arise for that? At the time that Restelli was sent away, which I think was the Thursday or Friday

after the adjournment of the House, I conceived that there would have been ample time afforded before any such necessity could arise: my instructions to Restelli were specific, as far as I recollect, that he was to return here on or before the 3rd of October; and at the time that Restelli went, I had a firm conviction in my own mind that he would so return.

Whom did you see at the Foreign office when you made the representation you have stated? It was either Mr. Planta or lord Clanwilliam, I am not certain which, to whom I think I stated, that Restelli was to be sent as a courier to Italy.

Did you state to the persons at the Foreign office, whoever they might be, that Restelli had been examined as a witness at this bar? I do not recollect to have made such statement.

Did you state who he was? I believe it was perfectly known who he was.

Have you had any communication which enables you to state, whether it is probable that Restelli will soon again be in England? I have every reason to believe that he will soon be in England, because the most positive directions have been sent, that he should be sent over; that every means should be used to make him come over here.

When were those directions sent? They have been sent two or three times; the last directions were sent on Saturday or Sunday, the most positive directions.

Has any answer been received to the first directions? I have learned that Restelli had for some days been violently ill, and confined to his bed with a fever, having been blooded and attended by some medical person.

Did you ever receive any directions from his majesty's government not to allow any of the witnesses, as far as you could prevent it, going out of this country, or any instructions to that effect? I do not recollect any specific instructions to have been given to me to that effect; but at the time I sent Restelli, I had not the least idea that he would be called upon again as a witness, or that he would be wanted as a witness, until, if this bill should have passed this House, it should have gone to the House of Commons.

Is it to be understood, that no such instructions were given by the government of this country to you? To me personally, I do not recollect any specific instructions having been given upon this subject; but I certainly was present at the debate in this House, in which the noble earl at the head of the government had stated it to be the intention of the government to take every care they could, that the witnesses should not go away.

Knowing that, did you not consider it at least an act of disobedience to those instructions, allowing or recommending this person to be sent abroad as a courier? I did not consider it an act of disobedience; I did not give it that consideration at all; I had a full expectation that the man would return; I never would have sent him if I had not had the fullest conviction on my own mind that the man would be here on or before the 3rd of October.

Was there any intention, when he went with those letters, of his bringing back other witnesses to rebut those for the Queen? None whatever.

Lord *Alvanley*.—Could not the families of the persons who are supposed to have been maltreated at Dover have applied at Milan to colonel Browne for intelligence upon the subject of the witnesses? They certainly could have applied to colonel Browne for intelligence, and many of them did, as I understand, apply to colonel Browne; he gave them the best assurances he could, but they were not satisfied with those assurances; the reports of maltreatment came from various quarters. I have received depositions of the relations of persons here, in which they depose to having heard of serious injuries received by their relations, and notwithstanding all the assurances which they received to the contrary from colonel Browne, they were not satisfied with those assurances.

In the event of Restelli's wishing to withdraw himself from judgment, have you, or do you conceive you have, any means of compelling him to appear? Individually I can have no means of compelling him to appear; but I certainly conceive, that, from the instructions which have been sent out, means will be taken with the government of the country in which he is, to compel him to appear, if he should be able to come, and should refuse to come.

Have any of the other witnesses been sent out of the country? Not to my knowledge, one.

The Witness was directed to withdraw.

Lord *Erskine* moved, that the question of the earl of Carnarvon be put to the counsel for her majesty.

The *Lord Chancellor* hoped the House would not so suddenly call upon him to give his opinion, whether a question so material were fit or unfit, in its present shape, to be put to counsel. It was this,—"Whether the counsel for the Queen think it convenient to the case of her majesty, that Restelli should be immediately called and examined?" He doubted whether this question could be put, as at present worded; at all events, it seemed to him that, if put, it ought to be followed up by requiring the counsel for the Queen to state the grounds for their opinion.

The Counsel were directed to withdraw, and the House adjourned.

HOUSE OF LORDS.

Saturday, October 14.

The order of the day being read for the further consideration and second reading of the bill, intituled "An Act to deprive

"Her Majesty Caroline Amelia, Elizabeth "of the Title, Prerogatives, Rights, Pri- "vileges, and Exemptions of Queen Con- "sort of this Realm, and to dissolve the "Marriage between his Majesty and the "said Caroline Amelia Elizabeth;" and for hearing Counsel for and against the same; Counsel were accordingly called in.

Then *John Allan Powell*, esq., was called in, and farther examined as follows, by the Lords:

Earl of *Carnarvon*.—You have stated, that Restelli was sent to Milan on Thursday or Friday after the adjournment of the House, that was on the 14th or 15th of September? On the 14th or 15th of September. I left town early on the morning of the 15th, the Friday, I believe, but I am not certain, that Restelli went the preceding evening, but I did not see him go.

Do you know whether Restelli was directed to take dispatches on his way to sir Charles Stuart at Paris? I do not.

When you sent Restelli abroad, in how many days did you calculate that he would probably arrive at Milan? I calculated that he might arrive at Milan in seven or eight days.

What time was it understood that Restelli was to remain at Milan? I sent some papers by Restelli to be farther legalised, which had been sent over, as I conceived, not so: those papers I thought might have been made use of upon the opening of this business again; consequently Restelli was to have returned previous to the 3rd of October, to have brought back those papers.

Was Restelli instructed by you to go anywhere except to Milan? Nowhere except to Milan, he was to go direct there.

Do you know that at or near the same time any persons who had been sent over here, in order to give testimony in this cause, were sent back to Milan? I know that, previous to that time, a person who had been sent over here had been sent back, not any person who had been examined.

Was only one person sent back? I recollect only one person.

Was that person one who had landed at Dover at the same time with Restelli? He was not.

Previous to Restelli's being sent abroad, you have said, that one person was sent back to Milan, was any other person, similarly circumstanced, sent back, or allowed to go back, to any other part of Italy? Not to my knowledge.

Subsequently to the return of that one person, had no other persons who had come here for the purpose of giving testimony, and had not been examined, been sent back, or been permitted to go back to Italy? Not to my knowledge.

Are you to be understood that, previous to Restelli's going to Italy, no person who had come here for the purpose of giving evidence or deposition had been sent back, or permitted to return to Italy, except the person you have already mentioned? Am I to speak from my own personal knowledge?

The witness was directed to speak from his own knowledge.

To my own personal knowledge there has not been.

To the best of your knowledge and belief?

The Witness was directed to withdraw.

The Earl of *Lauderdale* considered this examination irregular. He could not conceive the object of making inquiries respecting persons who had come from Italy, but had not been examined. He also protested against an examination of the agent of a party in a cause. He did not think their lordships could, consistently with the principles of law, call an agent before them, and examine him as to every step which he took in his client's case.

The Earl of *Liverpool*, without entering into the consideration of the question immediately before the House, had no hesitation in saying, that he was fully of opinion that any persons who had been brought here as witnesses, and who had not been examined, might be sent back. Indeed, it was his wish that they should be all sent back; and were he asked as to his belief, he would say, that several who had not been examined had returned.

Earl *Grey* said, his noble friend on the cross-bench (lord Lauderdale) seemed totally to misapprehend the object of the examination. What was the situation in which the House was placed? It was proved, that an agent in support of the bill had, contrary to his general instructions, and contrary to his duty, sent away one of the witnesses who had been examined at the bar. That agent had admitted his having done so, and, in justification, said, that he had so sent him for the purpose of giving assurance to the families of the persons who were in this country to give evidence in support of the bill, who had been, it was stated, very much alarmed by what had happened at Dover. Now, what was the object of the examination of his noble friend? To ascertain whether there was any validity in this excuse, set up for a step which was universally condemned, except, perhaps, by his noble friend on the cross-bench, but which he too would condemn if it proved to be unnecessary. In his questions relative to this measure, so generally repre-

hended by their lordships, his noble friend had asked whether certain persons, who had not been examined as witnesses, had not been sent back to Italy, who might have answered the purpose for which Restelli was said to have been sent. It was, doubtless, competent to their lordships to enter on such an inquiry, and without violating any important secrets, which an agent was bound not to disclose with respect to the affairs of his clients. An answer to the question which had been put by his noble friend was indispensable, in order to ascertain the validity of the excuse, if their lordships meant to inquire into this most reprehensible transaction, a transaction the impropriety of which his noble friend on the cross-bench did not deny.

The Earl of *Lauderdale* said, he had expressed his abhorrence of the proceeding; but the question was most objectionable in the manner in which it was put. It might be asked, whether any person who was present at Dover when the witnesses were ill-used, and who was also an Italian, had been sent to Italy besides Restelli? If he knew any thing of the law, one of the principles held most sacred was this—that an agent ought not to be required to disclose the confidential secrets of his client. To the question as he had defined it, he should have no objection.

The *Lord Chancellor* thought it his duty to state, with respect to the matters now before their lordships, that they could not be too cautious in putting questions to an agent; as, if this were permitted on one side, justice required that the same licence should be granted to the other. The principle, as the noble earl had stated, was this—that an agent should not be called upon to disclose the affairs of his client. The noble earl ought to put the question thus:—Have you or not, sent any other person abroad equally qualified to do that for which Restilli has been sent abroad?" By putting the question thus, they might ascertain all that had been done, without inquiring into matters that ought to be concealed.

The Earl of *Rosslyn* observed, that if the question was put in this shape, the witness might answer "No." But in that answer they would have only the opinion of witness as to the comparative qualifications of Restelli, and not the fact which they wanted; namely, whether at that period any unexamined witness had been sent back? Here their lordships had the admission that an agent of the bill had sent away a witness. That agent having assigned reasons in justification of his conduct, their lordships were bound to inquire and decide whether those reasons were valid and justifiable—whether they were real or pretended. With that view he conceived their lordships had a right to press the questions of his noble friend.

The *Lord Chancellor* said, there might be many cases, in which, from the sacredness of the principle now contended for, difficulties might arise; but if facts could not be obtained without doing that which the law of England would not authorize, the evil must be submitted to. Such questions must not be put in any particular case, on account of the evil consequences to which such a departure from the established practice must lead.

Lord *Holland* begged to ask one question of the learned lord on the woolsack relative to the principal in this cause. Was the secret committee or the House the principal. It had been said, that the House were the prosecutors, and if so, were they not entitled, as the principals, to examine their own agent?

The *Lord Chancellor*.—Whatever the popular effect of the question put by the noble lord may be, I cannot allow myself to answer a question which the noble lord ought not to have put.

The Earl of *Darnley* understood that a vast number of witnesses had been brought to this country who had not been examined at their lordships bar. For obvious reasons, it might not have been improper to send back this superfluous testimony. Such being the case, he was surprised that some of these unexamined witnesses had not been conveyed to Italy, where they could have answered every purpose that was to be answered by sending Restelli. It was said, that an account of the expense incurred was unnecessary when he had called for it.

The Earl of *Liverpool*, though the point was certainly out of order, begged to mention, on the subject of expense, that he had given orders a fortnight ago for the preparation of the accounts referred to. He begged also to observe, in reply to some observations which he had heard, that it was true that more witnesses had been brought over than had been examined, and he had certainly given it as his opinion that the unexamined witnesses should be sent back. But he had ex-

pressed this merely as his own opinion, subject to the professional opinion of those who were the best judges, how far those witnesses might be necessary or not. The attorney and solicitor general would, of course, act as they pleased respecting the disposal of their ownwitnesses. All that he had said on the subject was merely an opinion, and such, he begged it to be considered, always subject to the opinion of others better qualified to judge upon that subject than himself.

The Marquis of *Lansdown* observed, that there could be no question that the unknown prosecutor, whoever he might be, had the right of disposing of his own unexamined witnesses. There could be no objection to his doing so, for the act itself was open to no improper imputation; nor could the opposite counsel interfere to put any question respecting the disposal of the witnesses either to the agent or the principal; they could only ask, whether these unexamined witnesses had been sent away—a fact, which, when answered at the bar, could put them in possession of no new information, as that circumstance was already known.

The Earl of *Carnarvon* again supported the relevancy of the question which he had put. The object of it was, to know the value of the explanation given by the witness of his conduct in sending off Restelli, contrary to the general understanding of all parties, and contrary to the express order of the House. If he could shew that not one only, but from fifty to sixty witnesses had been sent back, who could have carried the information for the conveyance of which Restelli was so improperly selected—persons too, who, by their own personal appearance, probably well clothed, and with pockets well lined, could have completely removed all apprehension as to the treatment of witnesses here—if he could establish that, of what value would the explanation of Mr. Powell be? The question was simply whether any witnesses had been sent back to Italy previous to the departure of Restelli, and he could not see what secret there was in this. If there was any secret in it, it was one well known at the Foreign office, where all these persons had obtained their passports, and to this great secret, therefore, all the persons connected with that office, must necessarily be parties.

Lord *Auckland* understood it to be a rule observed in the courts below, that a question might be put to an agent, at the same time cautioning him only to answer it so far as he could do it, without violating the confidence reposed in him. In criminal cases this rule was, he believed, more extensively applied than in civil cases. He apprehended, therefore, that the question might be put, but that Mr. Powell should first be asked, whether in answering it, he would act inconsistently with his duty to his principal.

The *Lord Chancellor* observed, that the objection made to the question did not go upon the ground that it was necessary to protect the agent, but the principal. Although, therefore, the question might be put in the form suggested, yet he did not see how that would remedy the inconvenience, because it was not the protection which the agent owed to himself, but the privilege which was accorded for the safety of the principal.

Lord *Ellenborough* could not allow that that principle which was held to be so sacred in other cases, was exactly applicable to the present proceedings? The principal in this cause he considered to be the state. The Attorney-general had to discover the truth and nothing else; and if, at any period of the proceedings, the counsel for the bill should be satisfied that a case could not be made out, it was their duty to state this to the House. The state being the principal, that House, as part of the state, it appeared to him, had a right to examine their own agent.

The Witness was again called in, and the question was proposed.

I have heard that two others have gone.

At the time you resolved to send Restelli to Milan, had you inquired whether it was probable that any witnesses would be soon permitted to depart? I had made no inquiry on the subject.

You stated that you had received letters stating that Restelli was ill, from whom did you receive those letters? From colonel Browne.

Have you got those letters? I have not them about me.

Have you had any communication from Restelli himself since he left England? None, nor made any to him.

Marquis of *Lansdown*.—Did you instruct Restelli to go to any other place or places than Milan? I have already answered that I did not.

Earl of *Morley*.—Is the House to collect from your evidence of yesterday, that you applied yourself to the Foreign office for a passport for Restelli? I mentioned at the Foreign office that Restelli was to go as a courier.

Antecedently to your application were you

acquainted with the persons of lord Clanwilliam and Mr. Planta? I was.

Earl of *Darnley*.—Do you consider that, as agent for this inquiry, the witnesses are all under your direction and control? Certainly not under my direction and control.

Did you make the application to Restelli to go as courier, or Restelli to you? I; not Restelli to me.

Solely for the express purpose of quieting the minds of those witnesses in Cotton-garden? Of quieting the minds of the families and relatives of the witnesses in Cotton-garden.

Solely for that purpose? Solely for that purpose, and of taking back those papers; I sent the papers with him as a courier.

Lord *Erskine*.—If your sole object in sending Restelli was, to quiet the apprehension of the families of persons whom they might be anxious for, how came you to send by him the papers to legalise at Milan, the legalising of which might create some delay, if he was to bring them back? I did not send the papers that he might legalise them; I sent papers by him to Milan to be legalised, that farther proof might be had of them; and I expected that those papers would be legalised in sufficient time for Restelli to bring them back here on or before the third of October.

Did you intend that the papers should not be left by him to be legalised in his absence, but that he was to wait to bring them back? I had no expectation of that sort; it would be left to the discretion of colonel Browne to send those papers back by Restelli or not.

Marquis of *Lansdown*.—State what families of witnesses now in Cotton-garden you know to be resident at Milan? To be resident at Milan and the neighbourhood.

At Milan? Rancatti, I think, and the Majoochis, in the neighbourhood of Milan; I cannot carry in my mind the names of those witnesses: if I could see those names, probably I might be able to point out some others; it was intended not only to the families at Milan, but in the neighbourhood of Milan also.

Did you give any instruction to Restelli to quit Milan, and go into the parts of the neighbourhood or country adjacent to Milan, where those families resided, for the purpose of conveying those assurances? I do not remember that I gave any precise instructions upon that subject, but he was to take letters, and did take letters from the witnesses in Cotton-garden to their families.

Then it was by means of those letters so conveyed from Cotton-garden by Restelli that you expected that the families you allude to would derive that assurance? By means of those letters and Restelli's personal appearance at Milan, and probably the neighbourhood, that he would be sent from Milan to places in the neighbourhood.

Had you reason to expect that Restelli, without any instructions from you, would go into the various countries adjacent to Milan, in which those families resided, for the purpose of conveying assurance to them by his personal appearance? I recollect having stated to Restelli that he should take letters to the families of the different persons who were there, and that he should assure them of their being safe, and I concluded that colonel Browne would send him to those different persons to give that assurance.

Would it have been possible for Restelli to convey that assurance by carrying letters to those families in the different places where they resided, and by his personal appearance before them, without incurring a greater delay than that which you stated would belong to his mission? As I have already said, Restelli left this country, I believe, either on the evening of the 14th or the morning of the 15th, I do not know which, not having seen him go: couriers have gone to Milan in six days and six nights; supposing him to have taken seven, it would have brought it to the 21st or 22nd, leaving eleven days before the 3rd of October; the distance he had to go into the country would have been either to Monza, which is about ten miles, where one of the families lived, and Como, which is about five-and-twenty.

Lord *Auckland*.—Can you state whether the friends of a witness named signor Cuchi were in a state of anxiety? I know nothing of that; I have no reason to believe one way or the other.

Do you know whether any letter was sent to Trieste? By Restelli; I do not know what letters he took.

Can you state what number of letters were sent by him? I do not know.

Lord *Ellenborough*.—Did you send any letter to colonel Browne, by Restelli, on the subject of Restelli's mission? I did.

Have you a copy of that letter? I have.

Can you produce it? I have it not here.

Can you produce it? I can produce it; it contains a great deal of matter relative to other subjects; whether in my situation I ought to produce it or not, I must leave to the House, whether confidential communications ought to be produced.

Can you produce that part of the letter which refers to the causes of Restelli's being sent? It is altogether a confidential communication, which in my situation I must defer, and submit to the House whether I ought to produce or not.

The Witness was directed to withdraw.

The Earl of *Darlington* begged to remark to their lordships, that this witness had not been called in support of the bill, nor by the counsel for the defence, but by the House. In what capacity the House had called him, his lordship could not say. He had, however, been brought to the bar by an order of the House, and the noble lord would submit, that the counsel on both sides should be per-

mitted to put any question to him which they thought necessary, confining themselves to those rules of evidence which prevailed in the courts below.

Earl *Grey* said, the reason why the witness had been called was very clear. A circumstance occurred which was calculated to obstruct the course of justice. A person had been sent out of the country, contrary to an understood pledge, and the present witness, with whom this was supposed to originate, was in consequence called to the bar. He saw no reason why counsel should not be at liberty to suggest any question they thought material.

The *Lord Chancellor* said, that the principle acted upon in all the courts below, should in like manner be observed by that House, acting either in a judicial or legislative capacity. Whether counsel suggested a question or not, their lordships might put it to a witness if they thought proper. He did not rise for the purpose of objecting to the question put by the noble lord, but he really thought that now, as well as upon other occasions since the commencement of these proceedings, they had done that which, if permitted in the courts below, it was impossible that substantial justice could be done. If counsel called a witness to the bar in any state of the proceeding, it was certainly the duty of the court to give him credit for thinking that it was for the interest of his client so to do. Their lordships might ask any question, at the suggestion of counsel, if they thought such question fit to be put. He apprehended, however, that no noble lord ought to put questions which, in the courts below, would not be permitted. No doubt it would, in many cases, be impossible for counsel to give a satisfactory answer to the court as to the importance of a question, but the safe rule was, to give them credit for putting no other but such as were material.

The Witness was again called in.

Earl *Grey*.—You are understood to state, you are in possession of a letter from colonel Browne, giving an account of Restelli's illness? I am.

Can you produce, if not the whole, that part of the letter which contains that communication? I consider all the communications made to me by colonel Browne in this business as made to me confidentially, and as considering me one of the agents on this bill.

You therefore object? I therefore object to the production of any correspondence to colonel Browne, or from him.

Or any part of that correspondence? If I object to the whole, I object to every part.

You also object to the production of the whole or any part of your letter to colonel Browne on the subject of Restelli's mission? I object, in the character in which I stand, to the production of any correspondence either to or from colonel Browne.

You were understood to say, that you gave positive injunctions to Restelli to return before the third of October? If I recollect right, I stated to Restelli that he was to be back on or before the third of October, or as soon as he possibly could.

Did you state to him the reason for the necessity of his speedy return? I do not recollect that I stated any reason for his speedy return.

You were understood to state yesterday, you did not expect that Restelli would be wanted before this business was proceeded on in the House of Commons? I did not expect he would be wanted as a witness until this proceeding would go on in the House of Commons.

On what account then did you give him so positive an injunction to be back by the third of October, or as soon as he possibly could? Because I expected him to return with the papers which I had sent, and which I conceived I might want to use upon the re-commencement of the proceedings on the third of October.

It was for that purpose, and not for the purpose of his being called in case of necessity, in consequence of any examinations that might arise in this House? The necessity of his being called as a witness in the proceedings in this House did not suggest itself to me; the counsel against the bill having stated, that they had no further questions to put to any of the witnesses in support of the bill, his being called upon by them as a witness in the course of their defence did not suggest itself to me.

You were aware, however, of the opinion of this House, that it was necessary all the witnesses who have been examined here should be kept in a state to be produced, if necessary, in the course of the proceedings? That it had been so decided by the House.

That the House had expressed its opinion, and given its orders? I do not recollect that.

Were you not aware that this House had expressly stated its opinion, that every witness examined in this cause should be kept in a state to be re-produced, if necessary, in the progress of this inquiry? I certainly understood that, during the inquiry in support of the bill, during the giving the evidence in support of the bill, the House would require it.

You were understood yesterday to state, that you had been present when the first lord of the Treasury stated to the House an assurance that every witness, as far as it was possible for him to command it, should be forthcoming to answer any questions that it might be necessary to put to him in the further progress of this inquiry? Certainly.

Then were you not aware of the necessity of Restelli, as well as the other witnesses, being kept here for that purpose? I can only say, that it did not suggest itself to me at the time of Restelli's going; if it had in any

manner suggested itself to my mind, I should not have thought of sending him.

If any witnesses had been sent back previously, or at the time of Restelli's going, might not they have effected all the purposes of assuring the families of those who remained here of their personal safety? I considered Restelli the best person to send back for that purpose, because he had accompanied those witnesses who had been maltreated; I believed him to be well acquainted with the families, and consequently that he was the best person to go back for that perpose.

You meant then, that he should have a personal communication with the families of those witnesses? As far as was in his power, that was my intention.

You considered him as the best agent to have communicatiou with the families of those persons? I thought him the best person to have communication with the families of those persons for that purpose.

The reason then of your sending Restelli back was, that he might have such communication with the families of those persons? The reason of my sending Restelli back was, that he might take letters from the individuals here to their friends and families, and that he might personally communicate the situation in which those persons were here.

State from your knowledge, as an agent in this cause, of the witnesses who have been examined here, whether any one of their families is resident in Milan? Never having seen their families, or been in communication with their families, I cannot state from my own personal knowledge, any thing about it.

Those witnesses have all been examined here as to the places of their residence? I do not recollect the places of residence thay have stated.

Do not you know that all, except Majoochi, have stated that their residence was at other places, and not at Milan? I do not know, because I do not know where they have stated their residences to be.

You meant that Restelli should have communication with their families? I meant that Restelli should have communication with all the families, as far as he could, in Milan and the immediate neighbourhood.

You have stated, that if a courier goes day and night, and uses all possible expedition, he may go from hence to Milan in seven days, and return in as many? Six days and nights; I have heard of couriers going in even less time than that, in five days and six nights.

You seem to allow, upon the average, seven days as a quick expedition? Not as extraordinary expedition; I take it that a courier, using no extraordinary diligence, perhaps I may say ordinary diligence, would get to Milan in six days and nights.

Do you think a courier, using his utmost diligence, could go from hence to Milan and return, without any delay there whatever, in less than fourteen days? I do think so; I think he might.

Did you expect that Restelli could have performed the journey in less time than that, there and back? I can scarcely say what my expectation was; I generally calculated a courier's going in six days and nights; I know it has been repeatedly done.

Supposing this man had travelled twelve days and twelve nights without intermission, that was the least time in which it was possible for him to go and return from Milan? I do not say the least time, but that is the time he would probably have taken, if not a day or two more; he might have taken a day or two more.

Then state what time there was left, considering the time occupied in going and coming, for him to execute this commission of personal communication with the families of the witnesses, so as to make it possible for him to have been here again on the third of October? Supposing him to have left London on the evening of the 14th, he would have arrived at Milan on the 20th; I believe he went on the evening of the 14th, allowing six days for his return, whenever that might be, that would be the 26th, he would then have seven days.

Did colonel Browne state in his letter to you the date of his arrival at Milan? I do not recollect that he did.

On referring to your letters, if you find the date stated, should you have any objection to communicate it to the House? I can have no objection to communicating that, except that I object to communicating any thing.

You object to communicating the mere fact of a date? The mere fact of a date I could have no objection to communicating, except as forming a part of the confidential communication that has taken place between colonel Browne and myself. I consider that I ought in my character to object,—it is not that I should have any personal objection, but I consider it my duty to object to making any communication of correspondence of that nature.

Lord *De Clifford.*—Have any of the persons whom you have stated to have been ill-used at Dover, returned to Italy? None to my knowledge, except Restelli himself, who was ill-used.

Was there not a woman among those persons? I understand there was; I understand one man has never recovered the effect of it, he has been deaf ever since.

Is that woman still in England? She is.

Lord *Kenyon.*—Did Restelli bring more than one set of witnesses to this country? I do not recollect, I have no knowledge of it.

What were the names of those witnesses whom Restelli brought? Does the question refer to the witnesses whom he brought to Dover.

Any witnesses he brought to this country? I cannot recollect all the names, I can recollect some he brought over to Dover, as I understood; I did not see them.

On inquiry, can you ascertain the names of those witnesses whom Restelli brought? I could on inquiry ascertain the names.

Can you state what was the greatest distance of the residence of any witness from Milan, whom Restelli brought to this country? I cannot; I do not remember the names of all, therefore I cannot state.

Do you conceive Restelli could communicate with the families of all the witnesses he brought here, by going to Milan? That he could conveniently communicate with them all, certainly.

Do you know the names of the two persons whom you state to have been sent back to Italy? I stated one person to have been sent back to Italy.

Do you know his name? I do.

Can you state it? Aquabuona.

Did not you know, that you had lost all control over Restelli the moment he quitted England; and might not any other courier, not placed under such circumstances, have conveyed the intelligence to the families of the witnesses? Personally I lost all control over him, but I do not know that I ever had any control over him; I have already stated, that I did not think any other person could so well have communicated that information.

The Earl of *Liverpool* here interposed, and observed, that there could not be the least difficulty in communicating to the House the names of the witnesses, the alarm of whose families his journey to Milan was meant to allay, as well as the dates of the letters which were written for the purpose of bringing him back, whatever difficulty the witness might make, in communicating these facts in his character of agent.

Lord *Kenyon*.—Am I to understand, that there is any other difficulty in your answering these questions than that which arises from your character as agent.

The Witness was directed to withdraw.

The Earl of *Lauderdale* said, that this course of proceeding, if persisted in, would be fatal to the judicial inquiry in which they were engaged. They had called an agent to their bar, as a witness, who had been himself instrumental to bringing witnesses to support this bill; he begged only to ask, what would be their situation, if, from that confidential agent, a contradiction was extracted to the witnesses, whom he had himself produced? He thought the whole of his testimony should be removed from their Minutes.

Mr. *Brougham*.—I understand I am to be permitted to suggest some questions to the witness.

The *Lord Chancellor*.—The Lords have not yet done with the witness.

The Witness was again called in.

The Earl of *Darnley*.—You have stated, that you consider the witnesses for the prosecution are not under your direction and control; do you know under whose direction and control they are? I can scarcely state under whose, I consider them under the control and direction of the government generally, and the agents of the government.

Who is the person immediately authorized by government to see after those witnesses, and to direct and control those witnesses; do you know of your own knowledge? There are several persons who reside in the place with them, under whose immediate direction, whether control I cannot say, but under whose direction and care they are.

In point of fact, are persons admitted to see the witnesses, or refused admission, by your order? I have given directions, that persons should be admitted to see the witnesses, and certainly I have given directions, that strangers should be excluded; not that a constant, direct, and free communication should be had to the witnesses by every body who wished to go there, because I thought it inconsistent with their safety.

Earl of *Derby*.—You are understood to state, that you did not consider Restelli to be under your direction or control, under what authority did you take upon yourself to send Restelli from this country? As a person assisting, an agent, perhaps, I may call myself; a person assisting in the support of this bill; I conceived that I had a right to send Restelli; that I had that sort of implied authority.

Did you send Restelli out of this country of your own mere motion, without any communication with any other agent in the cause? I do not recollect whether I made any communication to any other agent in the cause; I know I spoke of it generally; I made no secret of sending Restelli.

You were not asked whether you made any secret of it, but whether, prior to sending this gentleman out of the country, you gave directions solely from your own head, that he should so go? I do not remember any communication to any other person; it is possible I might have made it.

You took it solely upon yourself to send this person, whom you did not consider under your control, out of the country upon this occasion? I took upon myself to send this person as a courier upon that occasion.

Can you state the names of those witnesses whom Restelli brought over to this country? I did not see the witnesses brought over by Restelli, I can merely state it from hearsay, therefore I have no personal knowledge as to who they were.

The following extract was read at the desire of lord Kenyon, from the former evidence of the Witness:

"Did Restelli bring more than one set of witnesses to this country? I do not recollect; I have no knowledge of it.

"What were the names of those witnesses

whom Restelli brought? Does the question refer to the witnesses he brought to Dover?

"Any witnesses whom he brought to this country? I cannot recollect all the names; I can recollect some whom he brought over to Dover, as I understood, I did not see them.

"On inquiry, can you ascertain the names of those witnesses whom Restelli brought? I could on inquiry ascertain the names."

Lord *Kenyon* now suggested, that the witness should be directed to produce the list of the witnesses whom Restelli had brought to this country.

The *Lord Chancellor* said, that as the witness could not speak to this subject of his knowledge, such list could not be evidence:

Earl of *Winchelsea.*—Did you consider yourself as having any authority over Restelli to order him to go out of the country? If the man had refused to go out of the country, I certainly had no authority to order him; I even considered him at liberty to go if he pleased, and that I could not have stopped him; I conceived that he was under no legal restraint.

The Counsel were asked, whether they had any questions to submit.

Mr. *Brougham.*—Who is your client or employer in this case? [Cries of No, no!].

The Witness was directed to withdraw.

Mr. *Brougham.*—My lords, it is a very important question, and I have no object in putting it except for the purposes of strict justice. It is most important for us to put this question to the present witness, as he is the very first that has appeared at this bar, in the course of the proceedings, who could give us any information upon the subject. Is it not of great importance to ask of this witness, who is the solicitor in this cause, who his client is, when we are acting as the counsel for a defendant open and avowed? If I knew who the person was, *non constat* that I could not bring forward documents, speeches, and communications without number against him, and highly important to the cause of my client. But up to this moment I have never been able to trace "the local habitation—the name" of the unknown being who is the plaintiff in this proceeding. I know not but it may vanish into thin air. I know not under what shape it exists;

"If shape it might be called, that shape had none,
Distinguishable in member, joint, or limb—
Or substance might be called, that shadow seemed;
For each seemed either.—What seem'd his head
The likeness of a kingly crown had on."

If I could see it, I might interrogate it, and bring out of its mouth, if mouth it had—who and what it is, and whether it be a man? But up to this moment, we do not know who the party is; it may be some shapeless form without a head—or it may be a head with the semblance of a body. But highly and vitally important as it is for my client to know who is her principal accuser, and highly indispensable as it is for me, who am her advocate, to put such questions to the witnesses as I am legally entitled to ask, and upon which I should have a right to insist in any of the courts below, I am met at every step of my progress by, "You can't ask this question—you must not put that question." But, my lords, how can I discharge my duty to my illustrious client, if I am to be debarred from putting questions to the witness indispensable for her defence; and which as an advocate in any of the courts below, I should have an undoubted right to put, especially as they tend in no degree to infringe the rules of professional confidence?

The Counsel was informed, that the question could not be put to a witness called to account for his having permitted a person examined as a witness to leave this country; but if he wished to propose such a question, he must for that purpose call him as his own witness.

How many witnesses, previous to the 14th of September, were here on the part of the bill from Italy?

The Witness was directed to withdraw.

The Counsel was informed, that he could not put that question; that he might ask how many had left this country.

The Witness was again called in.

How many witnesses who had ever come over in any way to this country, in support of the bill, to the best of your knowledge and belief, had left the country before the 14th of September?

The Witness was directed to withdraw.

The Counsel was directed to confine his question to witnesses from the north of Italy.

The Witness was again called in.

Previous to Restelli's being sent back to Italy, how many of the witnesses had, to the best of your knowledge and belief, returned to the north of Italy after having been here? I do not know of any; to the best of my knowledge and belief, none.

Will you undertake to swear, that at the time that Restelli was sent back, you did not know and believe that any persons who had been in this country as witnesses, had returned to the north of Italy? To the best of my knowledge and belief, none.

The question relates to witnesses who have been here and have never been examined at all; will you undertake to swear, that none of those witnesses who had not been examined, had gone back at that time to the north of Italy? None; I have no recollec-

tion whatever of any. I know of one person who was sent over here as a witness having been sent back to the south of Italy; I know of no person who had been sent over here; I have no recollection of any person who had been sent over here; I have no belief of any person who had been sent over here having returned to the north of Italy; if there be any names, and you will state them, it may bring it to my recollection. There were so many persons that I cannot possibly take upon myself to recollect every name of every individual who has come over here; some have come over that I have never seen.

Will you take upon yourself to swear that, at the time Restelli was sent back, no other person employed as a courier under the Milan Commission had ever gone from this country to the north of Italy after the Dover riot; Krouse, any other person employed as a courier under the Milan Commission? After the Dover riot, certainly not, under the Milan Commission; I consider the Milan Commission to have ceased its functions upon the return of Mr. Cooke and myself from Italy, early in the month of June 1819; having left Milan myself in the month of May, for the last time, but having ceased to act in the month of March 1819. I do not consider myself as having acted under that Milan Commission in this country.

The question relates to any persons employed as a courier in relation to this bill, and to the persons to be examined in support of this bill? Certainly couriers have been sent from this country since the Dover riot.

Will you give the names of some of those persons who have so gone backwards and forwards since the Dover riot? Does the question mean down to the present time?

Down to Restelli's departure? I know as a courier, Krouse.

Had not Krouse brought over some of the witnesses from the north of Italy? Yes.

Has any other person gone backwards and forwards, since the Dover riots, as a courier to the north of Italy? Other persons have gone as couriers to the north of Italy.

Who? I do not know; Krouse is the courier I know.

Do you know of Krouse having so returned to Italy after the Dover riot, at the time you sent off Restelli? I did.

Did you also know of those other persons having gone as couriers at the same time? I did.

Did you send any other courier, besides Restelli, to give information and comfort to the families of the other sets of witnesses, besides those whom Restelli had brought over? Letters were taken from all the witnesses and sent to colonel Browne by those different couriers, by other couriers besides Restelli.

Were any of those couriers, besides Restelli, directed to go round to the families of the witnesses, and to give them better evidence than their hand-writing of their friends being still alive in this country? When Krouse was sent to Milan, with letters from the witnesses here, I considered that colonel Browne would make use of Krouse in giving any information of that nature.

Did you give any instructions to Krouse, similar to those you gave to Restelli, to go about to the families when he took the letters? I do not recollect any instructions, any particular instructions to Krouse.

Did you give any instructions to any of the other couriers to the same purport with those you gave to Restelli? I sent my letters to the other couriers; I had not personal knowledge of those couriers; I sent my letters to the Foreign office to be forwarded; but I beg to state, I received information from Milan that the families of persons there were not satisfied with the assurances given by colonel Browne, and further, that reports were circulated that the letters which were sent by individual witnesses from this country had been forced from them, and that they had been obliged to write them in that way, stating their safety.

Name any persons who gave you that information? I received information to that effect from colonel Browne.

Will you mention the names of any families who were so uneasy? Colonel Browne's information was general; but I can name an individual to whom a representation had been made, after such letters had been sent, that her husband had received great personal injury, the wife of Rancatti, who had been sent for express by a person in Milan, to be informed of that, as I understood.

Did colonel Browne suggest at the same time the propriety of sending Restelli for the purpose?

Mr. Solicitor General objected to the question.

Lord Chancellor.—Were the communications from colonel Browne in writing? I may be allowed to state, that all the communications I have made, have been in writing.

The Counsel were informed, that then parol evidence of them could not be received.

Mr. *Brougham.*—Did you not know that Restelli never knew one of those witnesses whom he brought over, nor their families, and never had in his life seen one of them before the journey? How can I know that.

Do you not know that Restelli has sworn it in this place? Whatever Restelli has sworn appears upon the Minutes.

Had you read those Minutes before the 14th of September, you being agent for the Bill? I did read the Evidence; I do not recollect to have read Restelli's evidence; I have heard it.

Did you not hear Restelli swear, that he never had seen one of the eleven witnesses

he brought over, before he came the journey with them, consequently could not know them or their families? I cannot take upon myself now to say what I heard Restelli swear.

The following Extract was, at the desire of the Lord Chancellor, read from page 413 of the printed Minutes:

"Who are the persons with whom you came? Some I know, some I do not know; those I know, I know because we came together, but I had never seen them before.

"Who are they? They are various; I knew them by sight before, but I had no intimacy with them.

"State their names? Of some I can say, the others I do not know.

"State the names of those you do know? Carlo Rancatti, Geralimo Mejani, Paolo Oggioni, Philip Riganti, Enrico Bai, Finette, the wife of Majoochi; perhaps there may be some more, but at present I do not remember them."

Mr. *Brougham.*—Did you not hear the whole of that evidence given by Restelli before you sent him? I am not sure that I heard the whole, because I frequently go in and out of this House, therefore I cannot take upon myself to say that I heard the whole; but I must beg to observe, that the sending Restelli had not reference merely to the families of those witnesses whom he brought over with him to Dover; the occurrence at Dover had occasioned an alarm to the families of all persons who were sent over, or to come over as witnesses in support of this bill.

Do you mean to state, that the intention of sending Restelli was, that he, Restelli, should at Milan go round, and in the country in the neighbourhood of Milan, not merely to the families of those he had brought over, but all others [who had come over, and others also who might come over? To the families of all those that had come over, as far as he could; and, under colonel Browne's direction there, Restelli was to go and to take letters to the families and relations of persons who are here; as to the families of those who might come over here as witnesses it could have no reference, because they were not in danger.

State, not within one or two, but as nearly as you can recollect, how many witnesses came from the north of Italy? I cannot tell.

As nearly as you can tell, about how many, not within one or two, or six or seven, but about how many witnesses came over from the north of Italy in support of this Bill? I cannot tell; I do not know the numbers who are here now, and I cannot tell.

Will you swear there were not forty?

Mr. Attorney General objected to the question.

Mr. Brougham waved the question.

Had Restelli remained in this country the whole time which intervened between the riot at Dover and the 14th of September? Restelli went to Holland.

Did he go any where else? I cannot tell.

Had he any instructions to go any where else? He had instructions to go to Holland.

Had he instructions to go to any other place? Not that I know of.

Will you swear he had not been back at Milan between the riot at Dover and the 14th of September? No, I will not undertake to swear that he had not; I did not see him afterwards.

State the language you used to Restelli in giving him his instructions before he set out on the 14th, as far as is connected with this inquiry? As far as I can recollect (I cannot state the precise words) I told him he should collect letters from all the witnesses who were there, and that he should take them, and see the persons in Milan and that neighbourhood, and communicated to them the situation in which he had left them—that they were all safe—in order to ease their minds from the alarm that was, I understood, prevalent.

Did Restelli make any difficulty about going? No, he did not make any difficulty about going.

Did Restelli say any thing about coming back at that time? He said he would come back as soon as he could; I knew that Restelli was a very important witness in the proceedings on this bill, and that he would be a very important witness, as I believed, in the House of Commons, in case the bill should go there; I had no motive whatever, therefore, in sending him, except that which I have stated; and I certainly repeat what I have before said, that if I had not had the strongest conviction in my mind that Restelli would have returned to this country, no inducement whatever, and no feeling, should have made me send Restelli out of this country.

Mr. Attorney General.—Were you present in this House when the Attorney-general of the Queen stated, that he did not intend further to cross-examine any of the witnesses who had been called in support of the bill? I was, and heard him so state.

Has any intimation ever been conveyed to you, or to any other person to your knowledge, by the agents or counsel for her majesty, that Restelli would be wanted again to be cross-examined by them? None whatever; and I considered it not at all probable that Restelli would be wanted to be cross-examined by them, because I had understood the House to have called up Teodoro Majoochi, who was the only person called up for re-examination, under special favour, and as a special act of the House, not one to be continued with respect to all the other witnesses, who had been examined and cross-examined, and their cross-examination done with.

Has any intimation ever been conveyed to

you, or to any person to your knowledge, that her majesty's counsel meant to call Restelli as a witness for the Queen? None whatever.

Had you, when you dispatched Restelli to Milan, or had any other person with whom you have communicated, to your knowledge, the slightest intention of withdrawing Restelli from this country, in consequence of his having given evidence in support of this Bill? None whatever; and no person, for any consideration whatever, should have prevailed upon me to do such a thing.

Examined by the *Lords.*

Earl of *Lauderdale.*—Was not Restelli along with the witnesses at the time of the riot at Dover? I understood he was; I understood so from him.

Do you know whether, between the riot at Dover and the time of Restelli's quitting this country, there was any courier went from this country who was present at the riot at Dover? Not any, that I know of; I do not know who were present at the riot, and therefore I cannot tell; not to my knowledge, certainly; I was not at Dover.

Marquis of *Lothian.*—Was not Restelli himself maltreated at Dover along with the other witnesses? I understood they all were maltreated.

The Witness was directed to withdraw.

The Earl of *Lauderdale* said, that for the purpose of putting on record the part he had taken, he would move, that the examination of Mr. Powell be printed separately, as not being relevant to the issue of the present inquiry, it having been gone into for the information of the House on a subject of complaint.

Earl *Grey* maintained that the examination was of great importance, as it went to ascertain whether an important witness was or was not sent away. He saw no reason why the evidence on that subject should be printed separately. On the contrary, he was of opinion, that it should be embodied with the rest, especially as it would become a part of their lordships' duty afterwards to examine accurately into all the circumstances connected with it.

Lord *Erskine* was anxious that their lordships should not stultify themselves. It was then near one o'clock, and this examination had continued from the beginning of the day, and their lordships were now called upon to declare that it ought not to have taken place. His noble friend had contended, that it ought to be printed separately, because it was irrelevant to the issue before the House; if that were a sufficient reason to entitle it to be separately printed, many of the noble earl's questions had an equal claim to be also printed separately. The object of that inquiry was, to discover whether a certain proceeding had been adopted by an individual, in contempt of the order of the House; and if he had done that for which he ought to be punished? He agreed with his noble friend, who preceded him, that this examination was a part of their judicial proceedings, and ought to stand with the rest.

The Earl of *Lauderdale* held this examination to be of a separate character from the rest of the proceedings, and one in which every rule of evidence had been violated. Their lordships had attempted to assimilate the rest of the proceedings to those observed in the courts of law, but here four Judges had opened the case, and then asked the opinion of counsel. The usual course in other cases was, for counsel to open the case, and ask the opinion of the Judges. He wished it to stand on their Journals, that one peer at least had not sanctioned a precedent, by which every rule of evidence was violated.

Earl *Grey* said, that as he was one of the four Judges alluded to by his noble friend, he hoped he would not be found to adopt any conduct which did not become a Judge. At least he could assure his noble friend, that nothing should induce him to mimic the extreme mildness, moderation, and forbearance with which his noble friend had conducted himself during these proceedings. What had been done by the noble lords alluded to, would have been done by any Judge, in any court, under the same circumstances. If any person was charged with having thrown an obstruction in the way of the defence, the person so charged would have been called up for contempt of court, and examined, before the case was permitted to proceed any further. As for the proceeding itself, it was one which they were bound to take in justice to the parties concerned, and upon all accounts it was fitting and proper that it should appear with the rest of the Minutes.

Lord *Redesdale* observed, that what they had just heard at the bar could not stand as evidence one way or other, either in proof or disproof of the preamble of the bill. He was satisfied that no noble lord would permit it to operate on his mind as evidence.

The Earl of *Donoughmore*, so far from thinking that this examination should be

expunged, or treated with any distinction, thought it was as material as any part of the case. Their lordships were bound, from respect for their own characters, to protect the parties. There were many anomalies in the present proceeding; whether they rested more with one side than with the other, he should not take upon himself to say; but this he would say, that if they had not examined the individual whose evidence was now in question as they had done, they would have appeared to press very unreasonably and partially upon one side. He had always felt the great difficulties necessarily connected with a proceeding like the present; but he had also felt that the case was one which ought to be brought to issue, and one on which the verdict of guilty or not guilty ought to be pronounced. The examination, which had lasted three hours, might have been concluded in half that time, if no technical difficulties had been interposed. For his own part, he would have been ashamed to suggest any technical difficulties, because he wanted to get at the bottom of the transaction, and with that view to open a door as wide as possible to the admission of the necessary evidence. There were two parties concerned in the present bill. Of those, his majesty's government were the prosecutors. It was not becoming to state this candidly and openly, for government was called on by a sense of its own duty to act as such. If they were not the prosecutors in this case, he did not know who the prosecutor was in any case. Such, then, being the prosecutors, persons of the highest power in the state, it was the more necessary that the party opposed to that high power should have every fair advantage necessary to the conducting of their cause. He had risen to state these sentiments, as the grounds upon which he should concur with what he believed to be nearly the unanimous opinion of the House—that in justice to itself, and in justice to all parties concerned, the examination should be made a part, as he thought it would appear to be, not an unimportant part, of the Minutes.

The Earl of *Carnarvon* said, that if the proposition of his noble friend for printing the evidence in a separate form were adopted, the House would be placed in the situation of first inviting the counsel to take a part in the proceeding, and then coming to a vote, that this examination formed no part of the proceeding, but was a little private affair of their own. In common consistency, their lordships were bound to reject such a proposition.

The *Lord Chancellor* said, it was extremely important, that, when this House came to a decision upon evidence, or any other points, it should be distinctly understood, under what circumstances they came to that decision; because their proceedings would regulate those of the courts below, and it was of the utmost consequence that those courts should know, what weight was to be given to their decisions, by clearly apprehending the grounds upon which they proceeded. With respect to the question before the House, he certainly thought it would be convenient to agree to the proposition of the noble earl, for printing the evidence separately; for he understood from the clerk, that if it were printed in a separate form, it might be in a course of delivery early on Monday; but if printed with the other evidence, it would not be ready till a later period. There was one observation which he begged leave to make, with reference to what had fallen from a noble lord. This proceeding had been termed, as it was indeed daily called, an anomalous proceeding, because it was partly judicial and partly legislative. Now, he said, it was not an anomalous proceeding; a proceeding partly judicial and partly legislative was perfectly well known to the constitution of this country. As to the eloquence of judges, he was very unwilling to say any thing upon that subject, because it had always been his opinion, that judges should not be eloquent. It was their duty to state facts plainly, and give a clear and impartial statement of the law upon those facts. As to what had been said of the intemperate zeal which had been manifested in the course of this proceeding, he knew not what the eloquence of judges might be, nor was he prepared to say, that some noble lords, speaking as they did yesterday, were liable to such an imputation; but one thing he certainly felt to be objectionable, namely, that there was a species of noise in the House yesterday, which, whether it were eloquence or not, he would venture to say no interpreter at their lordships bar could explain. Of this species of evidence he hoped he should hear no more. He would only add, for the satisfaction of noble lords,

that when the evidence should be printed, whether separately, or together with the other evidence, it would be perfectly competent to any noble lord to make any motion upon the subject, which he might think proper.

Then *Joseph Planta* Esq. was called in, and having been sworn, was examined as follows, by the Lords:

Earl of *Carnarvon*.—Are you under secretary of state in lord Castlereagh's office? I am.

Do you remember any application having been made to you by any person in the month of September for a passport for an Italian of the name of Restelli? I remember that Mr. Powell came to me in the office in the month of September, and stated, that it had been determined to send Restelli as a courier, and desired me to take the official steps for that purpose.

What did you do in consequence of that application? I, in consequence, ordered the passport to be made out for him, and took the steps which were proper.

By whom was that passport signed? By lord Castlereagh; that is to say, if I might be allowed, I should explain that; there are signed passports kept in the office ready for such occasions, that therefore it was a signed passport which was used for that purpose.

Did you make any application to lord Castlereagh respecting the granting of that passport? I did not.

Did you, of your own accord, grant that passport, in consequence of Mr. Powell's application? I did.

Is it the practice of your office, for persons in your situation to grant such passports to couriers, without an immediate order from lord Castlereagh? It is the constant practice.

Had you received from lord Castlereagh, or from any other person, any instructions with respect to the granting passports, or otherwise, to persons who had attended as witnesses at the bar of this house in the progress of this bill? I had received no instructions whatever from lord Castlereagh, or any other person, with respect to witnesses or persons attending at the bar of this house.

At the time that passport was granted did you know that Restelli had been examined as a witness upon this bill? I knew it generally, from the knowledge one has from reading the newspapers; the general knowledge one obtains of the events of the day; but I did not know it otherwise that I am aware of.

Do you know on what precise day that passport was granted? I believe on the 14th of September.

Do you know whether courier Restelli was charged with any dispatches from the Foreign office, or only the dispatches given to him by Mr. Powell? I think certainly not with any dispatches from the Foreign office.

Do you know whether any passport has been granted to any courier for the purpose of calling back Restelli? I know that passports have been granted to other couriers, but what the object of their going might be I do not know; what I mean is, that I do not know, of my own knowledge, that their object was to recall Restelli.

Earl of *Darlington*.—In what capacity did you consider Mr. Powell to have applied for the passport for Restelli; in what capacity did you consider him as acting? As an agent on the part of the prosecution, certainly.

When Mr. Powell made the application for the passport for Restelli, did he at the same time make an application for other passports for other persons to return to Italy with Restelli? I think certainly not.

Earl of *Darnley*.—Has Mr. Powell made any application to you, at any other time, for passports for other witnesses on the part of the prosecution to go away? Certainly not.

Were you acquainted with the orders of this House at the time you granted this passport, the order respecting the witnesses not being allowed to leave this country? I had no knowledge whatever officially of it; I merely knew it in the same manner that one would know any thing one sees in the newspapers.

The Counsel were asked, whether they wished to propose any question to be put to the witness.

Mr. *Brougham*.—Did Mr. Powell say any thing else to you respecting Restelli's going back to Italy at that time? As far as I recollect, he mentioned something about Restelli's being a proper person to return to satisfy the families of the witnesses here, he made some statement of that sort, but I did not attend to that, I did not consider it as my business, I merely did the official act.

Did he say any thing else respecting Restelli's return to Italy at that time? I really recollect nothing else that he stated.

Did you recollect his mentioning that Restelli had been examined as a witness at that time when he applied for the passport? I do not recollect that he did.

Was any body by at the time of this conversation with Mr. Powell? I really cannot recollect, it is a month ago, whether there was any body in my room at the time; there are a great number of persons constantly in my room; I fancy there may have been others. Mr. Powell came in and staid but a short time, but I cannot recollect whether there were others; it is very likely there were other persons in the room.

You say that passports have been granted since the 14th for couriers, do you mean, to send couriers on business connected with this bill; this prosecution as you call it? Certainly, I do mean that.

What was the earliest of the passports after the 14th of September granted in this way?

That I really cannot recollect; I cannot possibly know that now, at this moment.

How soon can you take upon you to say that a passport was granted of this description to the north of Italy, after the 18th of September? I really do not know; I do not keep the book of the dates of the passports, all I have to do is to give the order for its being done; it is done, and a register kept of it; I do not keep the dates myself, and therefore I do not recollect the next date after the 14th.

Endeavour to recollect the date of the other passports with the same accuracy as you have recollected this? In consequence of what had passed, I ascertained last night, from the proper official person, that it was the 14th; previously to so doing I had no knowledge of the date of that.

Mr. Planta was directed to ascertain the date of the earliest passports after the 18th September to the north of Italy.

The Witness and the Counsel were directed to withdraw.

The Earl of *Carnarvon* again drew their lordships attention to the question which he had already submitted. It did not, as he apprehended, call for any opinion of counsel upon the evidence; but a material fact having appeared in evidence—the fact of Restelli being sent out of the country, although it now appeared necessary for the ends of justice that he should be called back to the bar—this having appeared before their lordships, made it incumbent on them to inquire of the counsel, whether they were prepared to proceed to other parts of the case. He should therefore move, that counsel be called back, and informed of the fact; after which the Queen's counsel should be asked, whether they were now prepared to proceed with any other part of their case.

The *Lord Chancellor* felt himself called upon, in the faithful discharge of his duty, to state to their lordships what ought now to be done. He was decidedly of opinion that, although her majesty's counsel might be called in, and informed of the absence of Restelli, the subsequent part of this question ought not to be put to the counsel. He would state the grounds of his opinion. If her majesty's counsel should think proper, after they were informed of the absence of Restelli, to make an application to their lordships, stating that they could not, consistently with the interests of their client, go on with the defence, it would be their lordships duty to call upon the counsel to state their reasons for such an application; to hear counsel on the other side; and after having heard both sides, to give their own judicial opinion, whether the proceeding should be suspended or not. He apprehended that, if it were established as a precedent that the court might call upon counsel to give an answer to such a question, the court would impose upon itself the duty of asking for the reasons of their answer to that question; and it might happen that the counsel could not state those reasons without entering into considerations as to the future part of the case, which it might be their most sacred duty to withhold from the court. But on the other hand, if the counsel thought proper themselves to interpose, and to state to the House, whether it would or would not be an unjust proceeding to go on with the defence, in that case the court must give the counsel credit for having looked round the subject, and determined for themselves whether it would or would not be for the interest of their client to state all the grounds of their opinion. It would be establishing a most dangerous precedent, when there was no occasion for it, to call upon counsel to state their reasons, instead of leaving them to judge for themselves, whether they would make any application to the Court. Upon these grounds, he should move that the latter words of the motion be left out, and that counsel should be called in, and told, that as they had called for Restelli, and that call could not be answered, it would be competent to them to make any application they might think proper.

The Earl of *Carnarvon* said, he should not oppose the amendment of the learned lord.

The question was then put, "That her majesty's Counsel be called in, and informed, that it appeared from the testimony of Mr. Powell, that Restelli was absent on the public service."

The Earl of *Carnarvon* thought it ought to appear distinctly upon their lordships Journals, that Restelli had not absconded, but had been sent away by the direction of Mr. Powell. If this did not appear, their lordships would not communicate to the counsel a knowledge of the evidence which had been heard at their bar.

The Earl of *Liverpool* had not the least objection to its being stated, that he had been sent away; but he thought their lordships were bound in justice to add,

not only that he was absent upon the public service, but that several official messengers had been sent to expedite his return.

Lord *Holland* thought it unnecessary to inform the counsel of what had already appeared in evidence. He could not perceive the advantage of gravely informing the counsel of facts which they had themselves been permitted to elicit from the witness.

The Earl of *Liverpool* entirely agreed with the noble baron that it would be better to make no communication at all, but merely to call in counsel and desire them to proceed.

The Marquis of *Lansdown* agreed that this would be the better course. The motion was objectionable upon another ground, because it would be an indirect acknowledgment that this House was satisfied with the conduct of Mr. Powell.

The *Lord Chancellor* observed, that it was certainly somewhat doubtful whether the counsel could be considered as having been absent, inasmuch as they had themselves taken a part in the examination of Mr. Powell.

The Counsel were again called in, and the Counsel for her majesty were directed to proceed.

Mr. *Brougham* requested, that himself and the other counsel of her majesty might be permitted to withdraw for a few minutes, in order to consider how, under the present circumstances, they should proceed.

The House was adjourned during pleasure. After a short time, the House was resumed.

Mr. *Brougham* stated, that in the extraordinary circumstances in which he and the other counsel for her majesty were placed, and under the new and insuperable difficulties by which they were surrounded, he felt it impossible to announce to their lordships any determination which they had to come to as to what future course they might feel themselves compelled to pursue in the further conduct of their case, more than to state that they would to-day pursue a little further the line of examination in which they had been engaged yesterday.

Then *Fillippo Pomi* was called in, and having been sworn, was examined as follows, by Dr. Lushington, through the interpretation of the Marchese di Spineto:

In what part of Italy do you usually reside? At the Barona.

How long have you resided there? In my own parish for thirty-five years; in the place where I work by day, fourteen.

Is the Barona the name of a parish? It is.

Have you resided in the house at the Barona, where the princess of Wales resided? I have been living fourteen years in that house.

Do you remember the princess of Wales residing in that house? Yes, I do, by night and by day.

What are you by trade or profession? A carpenter.

Do you know Giuseppe Restelli? I do.

Was Giuseppe Restelli in the princess's service? He was a groom.

Do you know Louisa Demont, a chambermaid in the princess's service? I do.

Do you remember, in the course of the last year, Restelli coming to the house at the Barona? I do remember it.

By whom was Restelli accompanied? Restelli came together with the son of the head master.

Was Demont with Restelli at that time? Demont came half an hour after, in a carriage with other persons.

Were Restelli and Demont on that occasion together in the house? They were.

What did you see Restelli do on that occasion? I saw them make a little drawing or plan up stairs.

Did Restelli, on leaving the house, offer or give you any money?

Mr. Attorney General objected to the question. The witness ought to be asked, what did Restelli do?

Dr. *Lushington* conceived the question to be perfectly regular.

Mr. Attorney General.—You cannot lead.

Dr. *Lushington.*—I do not mean to lead the witness.

Mr. Attorney General.—My lords, I apprehend that this is a leading question.

Mr. *Denman.*—I apprehend that it ought to be rather a leading question. Restelli has sworn that he offered no money to procure witnesses; and we have a right to ask a direct question, for the purpose of contradicting him.

The Counsel were informed, that the question might be asked.

The question was proposed, and the witness said,

He asked me whether I had received presents from those persons who had come, and I said no; and he afterwards made me a present.

Of what amount? He made me a present of forty francs, two half napoleons, or forty francs.

Did Restelli say any thing respecting mademoiselle Demont then, when he gave you the money.

Mr. Attorney General objected to the question. Their lordships could not receive evidence, as to what Restelli said respecting a third person.

The Counsel were informed, that they

might ask whether Restelli had offered any person money to come here as a witness.

Did he offer any money to induce you to come here as a witness? He did offer me on another day, not on that day; but he offered me not—not on that day, but he told me, that if I had any thing to say against her royal highness, I should receive a great present.

When was it he told you you should receive this great present if you had any thing to say against her royal highness? I said that I had nothing to depose against her royal highness, and that I had nothing to speak but well of her.

State, as nearly as you can, the exact words which Restelli used when he told you that you should have a great present if you came to speak against the princess? He told me, "Pomi, if you like, you may make yourself a man;" I asked him in what manner, he answered, "You, who have always lived in this house, day and night, may have something to depose against her royal highness." I said, that I had nothing to depose against that lady, who had always done a great deal of good.

Was Mademoiselle Demont present upon that occasion? She was not.

Did Restelli, at the time he made you this offer, mention the name of Demont to you?

Mr. Attorney General objected to this question. A conversation about Demont could not be received in evidence.

Mr. *Denman* submitted that, as a question likely to lead to important information with respect to transactions connected with this case, in which Restelli was engaged, it ought to be received.

Mr. Attorney General. — The witness has sworn that Demont was not present at the time, and therefore the question was irregular.

Mr. *Denman.* — The circumstance of Demont's not being present is of no importance whatever.

Lord *Erskine* observed, that the reason for asking the question was quite obvious, and it appeared to him to be one that ought to be answered. Restelli, it appeared, had taken an active part in this business, not only as a courier, but as an agent who procured witnesses. He was charged with having acted corruptly, and it was necessary to trace how far that corruption went. Therefore, whatsoever this man knew, that could inform their lordships on this part of the case, ought to be given in evidence, subject always to cross-examination and contradiction hereafter.

The *Lord Chancellor* said, that, under the peculiar circumstances of the case, he thought the question must be admitted. Something had been asked, on account of the absence of Restelli, which, if he were present, could not properly be received; and he could not shut out evidence of that, which, if Restelli were at the bar, could have been explained by himself; because it was not the fault of those who opposed the bill that he was not forthcoming. If the case were otherwise, the question certainly would not be regular. Let the evidence now go on.

The short-hand writer read the question:

Did Restelli, at the time he made you this offer, mention the name of Demont to you?

The Witness.—No; because it was a few days after that he had with me this conversation.

The Counsel were informed, that if they wished to be further heard against the last Question and Answer standing upon the Minutes, the House would hear them.

Mr. Solicitor General said, that he and his learned friends protested against putting a question of this description to the witness. It had been admitted that, if Restelli were here, it could not be put, unless he was himself called and examined to the fact. He contended that such was the legal rule. The question could not be put unless Restelli was called to the bar, and interrogated as to the fact. If Restelli, on being so interrogated, had denied it, then it would have been competent for the other side to call witnesses to contradict him. Such was the undoubted rule of law. But it was said, that because Restelli was absent, the counsel for the defence might go into a course of examination that otherwise could not be permitted. But why should this be allowed, when, in consequence of the unfortunate mistake with respect to Restelli, the counsel on the other side might make a proposition to their lordships for the postponement of the further proceedings on this bill until the return of Restelli? Is appeared to him to be fraught with great danger, if, on account of the accidental absence of this man, her majesty's counsel should be allowed to take a line of examination that was never before tolerated. They might ask questions, the witness knowing Restelli to be absent, which, if he were here, would perhaps be answered in a very different manner.

Mr. *Denman.* — How does the witness know that Restelli is not here?

Mr. Solicitor General.—He was now asked, how the witness knew that Restelli was not present? He did not state positively that the witness did know it; but if he were in such a situation that by possibility he might know it, that was sufficient for his purpose; because it was clear that such knowledge might cause a material alteration in the witness's evidence. When he heard Restelli called "a corrupt and profligate witness in this case," he would say, that, so far as the evidence went, there was no proof to bear out such an assertion. He had denied, on his oath, that he had participated in any transactions of such a nature; and witnesses, on the other side, had come forward, and sworn that he had. But he would ask whether, in this stage of the question, any person, viewing the proceedings that had taken place before their lordships, could fairly take on himself to say, before the evidence was finished, before the case was concluded, that this man was "a corrupt and profligate witness," or that he was proved to have been implicated in any transaction that ought to prejudice his evidence in the minds of their lordships? It was, he conceived, the duty of the counsel on the other side to make application to their lordships, as Restelli's evidence was material to the defence, for a postponement of the proceedings until he came back; but he thought it was wrong, during his absence, to suffer, on that account, an examination wholly inconsistent with the rules of evidence, and entirely unfit for the elucidation of truth, to be persevered in.

Mr. *Denman* denied that her majesty's counsel were bound to make any application to their lordships for a postponement of these proceedings; all they had to do was, to make such exertions as they might deem fit for her majesty's defence, considering the peculiar circumstances in which she was now placed. And here he might be permitted to assure their lordships, that if Restelli had been in this country, it was the wish of her majesty's counsel to have produced him at the bar of the house, as Majoochi had been. Under the expectation that he would appear when called, her majesty's counsel had actually summoned the witness at the bar to follow him, before they were apprized of the fact that Restelli had been spirited away from this country. When her majesty's counsel were thus situated—when, without any error on their part, they were deprived of a great advantage—he called on their lordships to support their claim to an extended examination. He, at the same time, entertained no doubt whatever, that the course her majesty's counsel were now pursuing was accordant with the strict rule pursued in courts of justice. Restelli said, he had nothing to do with the Milan Commission, except as a courier; but her majesty's counsel would prove, from his transactions, that he acted in another capacity; that he exerted himself to procure witnesses for money to swear against her royal highness. Restelli expressly swore, that he offered no money to any person to appear in the present cause,—a statement which her majesty's counsel were ready to rebut. In answer to this deposition they would show that, by a reference to the name of Demont, Restelli did make such an offer. Therefore he thought it necessary that the mention of the name of Demont should be proved, since it was by a reference to that person that the offer was made. He stood here upon the right which he was entitled to assume, in consequence of the extraordinary absence of Restelli, being perfectly convinced that the witness now at their bar was prepared to contradict his evidence, to show that many of his statements were altogether false. If, however, their lordships thought that her majesty's counsel were not entitled to go into the matter arising from this question, he was still prepared to act with confidence on the proved agency of this man. On that point he was ready to proceed. It appeared that Restelli was the agent, not the courier of the Commission; and, for the purpose of a further contradiction of that man's testimony, he had a right to inquire as to what he had stated relative to Demont. He had clearly a right to show, that a certain representation had been made by Restelli, when he referred to the name of Demont, which involved a contradiction of the evidence he had given before their lordships.

Mr. Attorney General maintained, that the question could not be put, for the reasons so forcibly advanced by his learned friend, which had not been met by any sufficient arguments on the part of her majesty's counsel. He had heard it repeatedly asserted, that this man, Restelli, was acting in the nature of an agent, for the purpose of procuring witnesses to attend at their lordships' bar; and that, therefore, what he had stated as evidence

was not to be credited. Now he would assert, that agent, this man, never was for any such purpose. The only purpose for which he was employed appeared to be to bring witnesses to Milan, to be examined before the Milan Commission; but there was no evidence, that he ever procured witnesses to be examined before their lordships. He would ask, whether it was ever heard of, in a prosecution like this—in a criminal prosecution—that the conversation of an absent person was attempted to be proved, when he himself might be called and examined? It was said, that no party appeared in support of the bill. Who was the prosecuting party in every criminal prosecution? The public, always. But was it ever known, in any criminal prosecution, that an examination might be carried on through the medium of a third person, when the individual whose words were to be proved might himself be called? Restelli stated, that he was employed on the Milan Commission to conduct evidence to Milan, evidence that certainly might afterwards support the bill. But the question asked of him was, "Did you receive money to bring witnesses to the bar of this house?" And his answer was "No." The question now put was, not whether he gave money to bring the present witness to their lordships' bar, but it referred to a conversation which was held with the witness, in which the name of another person was mentioned. He would contend, however, that his learned friend must confine his examination to the question originally put to Restelli, namely—"whether he offered money to any person to come to that House?" to which question he had answered "No." As to the fact of such an offer having been made to the witness, he knew, that evidence relating to it might be received; but, as to Restelli's conversation with other persons, he denied that any deposition on that point could be attended to, even if he were present, except to contradict, supposing him to have declared that he had held no such conversation.—He would now call back their lordships' recollection to what had taken place at the close of the case for the bill; he would call their recollection to the express declaration of the Queen's attorney-general, that he should want no farther examination of the witnesses in support of the measure. He knew their lordships had reserved to themselves, under the exigencies of the case, the right of calling back witnesses, if they thought it necessary. This, however, was not meant for the advantage of the counsel on the other side; their lordships only asserted their right to call back witnesses for their own satisfaction. Now, however, her majesty's counsel, after their express declaration, wished to put questions to a particular witness. They had stated no cause why they wished to bring him forward again. All that he understood was, that Restelli was to be brought up as a witness for the defence—as the witness of the other side; not for cross-examination, but as a direct witness. But if he even were at the bar, they could not, in that case, ask him as to those declarations; because they could not summon a witness to come forward with a view to make him contradict himself. If Restelli were at the bar that instant, called forward by his learned friends on the other side, no examination of the nature now attempted, with respect to the case of Demont's name on the occasion alluded to, could be allowed. Then, he would ask their lordships, whether his learned friends were justified in placing themselves in a better situation, than they would have stood in if Restelli were present? His learned friend had said, he wished to call this man to the bar as a witness for the defence. But if he were present, not a question that had been asked, put in the way in which they were put, would have been allowed. As their own witness, his learned friends would not be suffered to ask questions to make him contradict himself. He would point the attention of their lordships to the situation in which they were now placed. He regretted, in the fullest extent, the circumstance of Restelli's absence on this occasion—his innocent absence—occasioned by an ignorance of what was likely to occur. But, because this individual chanced to be absent, were they to depart from all the rules of evidence? If his learned friends conceived that Restelli was a witness in their favour, on this inquiry, then, he contended, that a certain delay should be prayed for by them, in order that he might be brought here as their witness. It was for their lordships to consider whether such a delay should be granted; but if an application of that description were not acceded to, his learned friends ought not to be placed in a situation to which they could have no claim if the individual were present.

He trusted that their lordships would not come to a conclusion as to the character of Restelli, until the proceedings were terminated; he hoped they would wait, with reference to that point, as he was sure they would do with respect to that which was of infinitely more importance—the truth or falsehood of the preamble of this bill—until the whole case was proved. Whatever Restelli had done or said, their lordships would decide on by weighing and balancing the evidence. They would view the whole case with a judicial eye. Looking to the law of evidence, he submitted, with great deference to their lordships that this question could not be put. The witness had been asked, whether an actual offer of money had been made to him; that question had been answered; and he would maintain that they could not afterwards go into evidence as to a conversation in which the names of other persons were mentioned.

The Counsel were directed to withdraw.

The Earl of *Liverpool* said, he was not competent to decide, how far the question in dispute might be put if Restelli were present; but he did think, that Restelli, being absent for reasons with which the counsel on the other side had nothing to do, being absent from causes which, however explained, left the *laches*, in the eye of the law, on the other party, that party should not prevent the putting of this question. The only point for consideration was, whether, supposing the question could not be put if Restelli were present, it ought, under the peculiar circumstances of the case, to be allowed now? As the absence of Restelli was not attributable to the counsel for the defence, he thought the question ought to be admitted.

The *Lord Chancellor* said, the witness had been asked whether any money had been offered to him, and he had given his answer to that question. It was, therefore, a matter for their lordships' consideration, whether the subsequent interrogatory was not stretching the inquiry too far. Perhaps it was not, if they considered how peculiarly circumstanced they were. With respect to the witness whose evidence was meant to be impeached, he was bound, until the moment that witness was confuted, to consider him as honest a man as any that had been produced in the course of this proceeding. If, in the end, he was contradicted, so as to put it out of his power to clear himself, then he and their lordships would have a right to take a different view of his character. He could not agree that the witness should be described as one who had been "spirited away." He was away, beyond a doubt; but there was no reason for saying that he was spirited away. It would be for their lordships to decide whether, because counsel, when asked if they had any further questions to put, answered in the negative, therefore, for the reasons that had been stated at their bar, the sending away of a witness was allowable. He did not think, because a counsel stated that he had no further questions to ask, on cross-examination, that it must be taken as granted, that a necessity might not arise for a farther examination, in consequence of information which that counsel might have received at a subsequent period. Circumstances might be disclosed which would induce the counsel to call the witness back again, for the purpose of putting certain interrogatories to him, the answers to which he might have an opportunity of contradicting. As it seemed to him, the learned counsel for the defence meant to call Restelli as a witness in chief: so, to him, it certainly appeared. But he could not go the full length of saying, because it so appeared to him, that it was intended to produce Restelli as a witness in chief, that therefore it would have been incompetent to the learned counsel to have waved their determination, and called him as a witness, whose declarations after he was examined were to be contradicted. Undoubtedly, their lordships were placed in a situation of great difficulty, not by any fault of their own—not by spiriting away a witness—a circumstance which would, by-and-by, be fully, fairly, and impartially discussed:—the great difficulty they had here to contend with was this—whether, as Restelli had been sent out of the country by some of those who were now acting in support of the bill, they were to impose on her majesty the disadvantage of postponing her defence, not in consequence of her act, but of their act? If Restelli had been here, different questions might have been put to him relative to the point spoken to by the present witness. If he had denied the alleged facts, the witness might have been called to contradict him. But his absence had altered the course of proceeding. The matter finally resolved itself into this point—if the question now put were admitted,

whether it did not go to confirm the fact that Restelli had made such applications as had been alleged, under particular circumstances—whether he had not used the name of another witness, who was actually coming to this country, at his desire—and whether, in that conversation, in which money was offered, the name of Demont was not mentioned as a species of communication that was to induce the witness to acept of a reward. These were very important questions, and could only be put to the witness in consequence of the absence of Restelli.

The Counsel were again called in, and the witness was asked,

Dr. *Lushington.* Where did this second conversation take place? It took place on a morning that he called upon me, and we went together to the inn.

Did he then make you any offer or promise of money if you would become a witness against her royal highness, in what words, as nearly as you can recollect? He told me, "Pomi, if you have any thing to depose against her royal highness, now is the time; you will have a great present; you will become a great man, and shall receive a great present;" we went to the inn together, and we drank there.

Did he then, when he told you, you should have a great present, mention the name of Demont? Yes, he did mention the name of Demont.

Did he mention the name of Demont with reference to any offer of money that he made you?

Mr. Attorney General objected to the question.

The Counsel were informed that they might ask with reference to what did he mention the name of Demont.

With reference to what did he mention the name of Demont? I asked him whether Demont was still in the service of her royal highness; he told me that she was; he did not mention to me her name on the day he was taking the drawing, but he mentioned it on the second day, and told me that she had made a good day's work; we were there at the inn, and we drank together.

Mr. *Cohen.*—He has added these words, "and that she, Demont, had gained a great sum."

Some doubt being expressed whether the whole of the answer had been translated; the interpreter, having been directed not to interrupt the witness, but to hear the whole answer before he translated any part, the question was ordered to be proposed again.

The Question was again proposed, and the witness said,

I asked him for this thing, because I told him, tell me how is this business, for he told me that Demont was still in the service, and then I found out that she was here; and he told me at that time that if I would depose something I should have a great present; and I said that I had been night and day, a long time in the house, and I never saw any thing that enabled me to speak ill of that lady, then he told me you know nothing, for I tell you that that house was a very bad house, bad women, and so; and I answered that this was a real falsehood, for I had been in the house, day and night, and I saw nothing of this, and we ended so.

Mr. Attorney General objected to the answer standing on their lordship's Minutes.

The Counsel were informed that their lordships were of opinion that the answer should stand.

Did Restelli, upon that occasion, say any thing further respecting Demont? No.

The Witness was directed to withdraw.

Then *Joseph Planta*, esq. was again called in and further examined by the Lords as follows:

What is the first date after the 18th of September of any courier going to the north of Italy on this business? It appears to be on the 28th of September.

The Witness was directed to withdraw.

Then *Fllippi Pomi* was again called in, and further examined by Dr. Lushington as follows:

Was it upon this occasion that Restelli used the expression you have repeated, of making a good day's work? Yes, it was on that occasion, that he was going about making recruits.

State all that Restelli said about making a good day? I cannot express it; I must only say that he told me, that on that day, when she came there to make that drawing, she had made a good day.

Do you know a person of the name of Riganti? I do, he is a companion of Restelli.

Where does Riganti live? At the Porta Ticinese.

Of what trade is Riganti? He sells salt, tobacco, brandy, and other liquors.

Does he live at Milan? He dwells out of Milan, at the distance of two gun shots.

Has he ever asked you to come and depose against the princess?

Mr. Solicitor General objected to this question as being wholly irregular. What had Riganti to do with the case?

Dr. *Lushington* maintained the propriety of the question. If their lordships would turn to the 410th page of the

printed Minutes of Evidence, they would there find the following questions and answers, which had been put to, and given by Restelli:—

"Did you offer yourself as a witness to the Milan Commission, or did those who pay you your pension induce you to go before them, or how?—I have not been to Milan for this purpose, but I am settled at Milan.

"The question was, not whether you went to Milan, but were you induced to go to the Milan Commission, or did you go voluntarily?—I have been sought after.

"Who sought you?—The first time a man of the name of Riganti came to tell me to go to the advocate.

"To the advocate Vimercarti?—Yes.

"Riganti is a tobacconist at Milan, is not he?—He is.

"How soon after Riganti spoke to you did you go before the commission?—I have only spoken with the advocate at first.

"How soon was that after Riganti sought for you?—The day after.

"Was any body with the advocate when you first went?—There was not.

"Did the advocate then take your deposition?—He did not.

"Did he ask you any questions about what you knew? He did.

"How soon after did you go before the commissioners?—I believe a day or two after.

"How many persons did you find assembled there?—There was the advocate, three English gentlemen, and two Italian amanuenses."*

Now, on the evidence which he had just read he contended that he was entitled to give proofs of what were the acts of this Riganti. It was well known to their lordships that the counsel for her majesty laboured under this great difficulty—that the real prosecutor in the case never appeared to them in any specific shape or form. Their lordships would therefore, he was persuaded not take from them the benefit of showing, by direct evidence, what were the acts of the subordinate persons connected with the prosecution. The person respecting whom he wished to obtain evidence from the witness was manifestly one of the persons concerned in this nefarious proceeding. Undoubtedly it was extremely difficult to find out who the actual prosecutors were in the case. It certainly appeared, that it had originated in a kind of joint-stock company of which his majesty's government and their lordships were co-members; and that whatever had been done in it, had been done by order of their lordships and his majesty's government. The expenses of getting up the prosecution had been defrayed by his majesty's government, and their lordships had directed the attorney and solicitor-general to attend on behalf of the bill.—Thus, therefore, he had a right to assume that the Milan Commission acted under authority, and he conceived that he had a right to prove what were the acts of all the agents who had been employed on the occasion. Otherwise, let their lordships consider the hardship of the situation in which her majesty's counsel would be placed. The immediate agents for the prosecution were screened from examination. Mr. Powell had claimed the benefit of that shelter. Were her majesty's counsel to be exposed to the double disadvantage of not being allowed to examine evidence with respect to the conduct of those agents? It appeared, by the extracts which he had just read from Restelli's evidence, that Restelli, at the instigation of Riganti, went to Vimercati, who was unquestionably an agent for the prosecution. But that was not all. When he came to Vimercati, the latter asked him questions, thus adopting the agency of Riganti, and afterwards took him before the Milan Commission. Thus, he conceived, that he had stated sufficient proofs of Riganti's agency, and that he had acted under the authority of the Milan Commission. This being the case in what a state would her majesty be placed, if their lordships refused to allow of this evidence. What hope of justice could her majesty possibly have, if their lordships refused to hear evidence as to the conduct of persons who had avowedly acted under the authority of the Milan Commission, and who, under that authority had traversed all Europe committing subornation of perjury, and using every undue means of supporting the cause to which they were attached?—He contended, that their lordships were bound to hear such evidence as would show whether the testimony which had been adduced in favour of the bill had not been brought to this country by the hope and promise of reward.

Mr. *Denman* begged to add a few words

* See Vol. 2, p. 1253.

on the same side, reminding their lordships, that, though this was now admitted on the other side to be a criminal prosecution, yet it was also a divorce-bill, and that there were certain parties on whose behalf it was solicited. It was likewise said to be a proceeding for the purpose of obtaining substantial justice; and he begged leave, with great humility, to ask, whether substantial justice could be obtained by the extensive system of subornation of perjury carried on in the north of Italy to purchase all the purchaseable witnesses against her majesty; more especially if those witnesses were to be screened, who were not only paid for coming to the bar of this House, but for going before colonel Browne, Mr. Powell, and the advocate Vimercati, at Milan? Riganti was at present in this country; at least he was one of the individuals who came over with Restelli; and whether he had returned to Milan to quiet the apprehensions of his friends and connexions he knew not; but if he were still in England, the counsel for the Queen would certainly not put a person into the box as their witness, whom they charged with the commission of crimes of the deepest dye. He could not, without surprise, be told that her majesty was bound to make Riganti or Restelli witnesses on her behalf, when the very object of interrogating them would be to fix them with conduct the most abominable and atrocious. [Some person here observed that such conduct was not yet proved.] I do not say (continued Mr. Denman) that such conduct is yet proved against them; but I apprehend that, as an advocate, I have a right to impute it. I have a right to state that such is the case I will make out; and I have a right, in every stage of the proceeding, to assume that what I assert I shall establish in evidence. I do not know that I am justified in saying that these persons have been "*spirited* away,"—but certain it is, that one of them has disappeared at the instance of one of the Milan commissioners, in defiance of a direct order of the House, in direct violation of a solemn pledge given by a peer at the head of the government, and by the assistance of an office over which another noble lord so warily presides. Unless my lips are to be sealed when I enter upon the defence of my illustrious client, I shall maintain, and I think it is but fair to give notice to all parties, that the most malignant and extensive conspiracy ever devised against the honour of a persecuted individual, is the sole source and origin of the disgusting mass of corrupt evidence now upon the table of the House. It is to establish that fact that I now claim, on the part of the defendant in this most criminal prosecution, that we should be allowed to prove the agency of Riganti. Unless I am to be told by the attorney-general, that, this being a criminal prosecution, the conduct of the prosecutor is entirely out of the question, I apprehend there cannot be the slightest doubt, that the mode and circumstances under which this evidence has been scraped together, is most material to the great issue before the House. On that ground, we tender the evidence now resisted; and, if we are not to be excluded from the only advantage this mode of proceeding offers to the accused, we must be allowed to proceed with it. If her majesty had been indicted or impeached, there might, perhaps, be some little question whether the acts of agents could be looked to as affecting some unknown and invisible principal; but, certainly, in a bill of pains and penalties, accompanied by a clause of divorce, solicited by the solicitor for the treasury, and by the agents of government, it is at least open to us to inquire what means have been resorted to, to procure the testimony. Mr. Powell has stated that the Milan Commission suspended its sittings in July, 1819; but we are totally in the dark as to its proceedings, with that single exception, though we have every reason to believe that long before that time it was exercising its functions with great activity. When it was known, then, that such measures were adopted to obtain a bill of degradation and divorce against the Queen, it would not be surprising if all that was base and perjured should voluntarily present itself in support of such a proceeding; but when we find, in addition, as we have found, that agents have been going about in all quarters to corrupt, bribe, and invent, it is too much that we should be allowed to prove the acts of those agents?

Mr. Attorney General began his reply by complaining that the counsel on the other side, had, as usual, gone out of their way to attack individuals not before the House. They had animadverted especially upon the members of the Milan Commission; but he could tell his learned friends, and could assure their lordships, that, whenever the fit time should arrive for inquiring into the conduct of those

gentlemen, all their acts would be completely justified: they were most anxious to have their conduct fully investigated, and it would then stand clear before the House and the public, that nothing done by them at Milan, or in the progress of the commission, could reflect upon them the slightest discredit. But what had this question to do with the Milan commission? His learned friends had exhausted their invectives (he begged pardon, their invectives were not exhausted, for Restelli had again been dragged forward) upon the Milan commission; but what had it or Restelli to do with the point, whether the acts of Riganti should be made the subject of inquiry at the bar? All they could prove against Restelli had been proved; and now they wished to go farther, and to examine as to the acts of a man named Riganti, assuming that he was an authorised agent of the Milan commissioners—

The *Lord Chancellor* here interposed, and said,—I wish to know, whether any noble lord thinks that this question can be put. It would be quite wrong to stop the argument if any noble lord entertains a doubt upon the subject, but to me it seems the most extravagant proposition ever urged. Whether the prosecutor is invisible, as one learned gentleman asserts or so clearly seen that another learned gentleman can point him out as easily as a joint-stock company, I do not know; and whether that is language proper for the occasion is another matter. But whatever the House may think, whether the prosecutor be visible or invisible—whether this proceeding be or be not of a criminal nature—I deliver it as my opinion, without the slightest hesitation, that it is impossible to admit such a question.

The Counsel were informed that the question could not be put.

Mr. *Denman* wished, before the adjournment, to make an application to their lordships. Restelli had stated in his evidence, that Riganti had accompanied him to this country. He humbly submitted to their lordships, under the peculiar circumstances of the case, the expediency of ascertaining, from the parties conducting the prosecution, whether or not Riganti was still in this country.

Mr. Solicitor General apprehended, that the counsel on the other side had no right to interfere in the conduct of the case on the part of the bill, or to dictate to their lordships what it was expedient for them to do. Whether or not, Riganti should be called to contradict the testimony of the witness who had just been examined, must be left to the discretion of those who had the conduct of the bill.

Mr. *Denman* disclaimed any intention, either of interfering with the conduct of the bill or of dictating to their lordships. Neither had he asked, whether it was intended to call Riganti as a witness. But the question, which he had humbly submitted to their lordships consideration, was, whether, as Riganti had been stated by Restelli to have acted as an agent—

Mr. Attorney General denied that Restelli had so described him.

Mr. *Denman* maintained, that Riganti had been distinctly described by Restelli as having acted as an agent.

Mr. Solicitor General contended, that all that appeared in the evidence of Restelli was, that Riganti had been employed as a messenger.

The *Lord Chancellor* observed, that if Riganti was in the country, it was in the discretion of those who oppose the bill, whether they would call him as a witness or not, and that it was also in the power of any peer to propose to call Riganti, at any period; but that that question could not be put by the House to the counsel in support of the bill, whatever information might be given in any other way.

The Counsel were directed to withdraw; and the House adjourned.

HOUSE OF LORDS.

Monday, October 16.

The order of the day being read for the farther consideration and second reading of the Bill, intituled "An Act to deprive "Her Majesty Caroline Amelia Elizabeth of the Title, Prerogatives, Rights, "Privileges, and Exemptions of Queen "Consort of this Realm, and to dissolve "the Marriage between His Majesty and "the said Caroline Amelia Elizabeth;" and for hearing Counsel for and against the same; Counsel were accordingly called in.

Then the counsel on both sides were asked, whether they had any objection to the examination of sir John Beresford being now interposed in the middle of the examination of Filippo Pomi; and the counsel stating that they had no objection:

Sir *John Poer Beresford*, bart. was called in, and having been sworn, was examined as follows, by the Lords:

Earl *Grey*.—Are you an admiral in his majesty's service? A rear admiral.

Did you, during the late war, command his majesty's ship Poictiers? I did.

Do you remember a person of the name of William Carrington serving on board that ship? I do.

In what character did he so serve? As quarter-master.

Was he never otherwise rated than as quarter-master of that ship? Not while I commanded her.

Did he leave the Poictiers during the time you commanded her? He left the Poictiers at the time there was an acting captain on board. Perhaps if I were to tell your lordships the circumstances, it would prevent a good deal of delay: at the request of sir William Gell I procured the man's discharge from the Poictiers, by writing to captain Jones, my acting captain, to beg he would rate him as my clerk, in order to get him his discharge, and he was discharged by captain Jones rating him as a midshipman; as I fancy there was no vacancy for a clerk, he was rated a midshipman in order to get him his discharge.

You understood him to be rated as a midshipman previous to his discharge? I did not; I never knew he was rated midshipman.

You were understood to state, just now, that captain Jones had rated him as midshipman previous to his discharge? I understood he was rated midshipman after he was discharged, in order to get his pay.

In point of fact he was rated midshipman before he was discharged? Yes, the ship's books will best tell that.

Was it at sir William Gell's request, and not in consequence of any request on his part? At sir William Gell's repeated request to me.

Did you give him, at the time of his leaving, a ship-certificate of good conduct? I gave him a certificate of good conduct either before he left the ship or after, I do not know which, but I gave him a certificate.

You gave him a certificate expressing your approbation of his conduct? Yes, he was a very good man while I commanded the ship, and I gave him a certificate, as I do all good seamen.

Did you consider that there was any thing irregular in his conduct while on board the ship, or any thing irregular in his manner of procuring his discharge? The first question I should wish to answer first; while he was on board the ship, there never was a man that behaved better: as to the irregularity of his discharge, if there was any thing irregular in it, which I believe there was, it was my fault, and not the acting captain's; I had it done in order to oblige sir William Gell.

There was no fault of William Carrington? No fault of William Carrington whatever; he was a very excellent man.

Lord *Melville*.—Are their lordships to understand from you, that William Carrington, in point of fact, never was a midshipman of the Poictiers while you commanded that ship? Never.

He never did the duty as a midshipman? Never.

Do you recollect any conversation with Carrington, as to his being rated as a midshipman, or brought forward in the service as an officer? Never.

Do you recollect his complaining to you, that he did not like the sea, and that he wished to get his discharge on that account? I will state the proceeding before he said he did not like the sea.

Did he ever state to you, that he wished to be discharged from his majesty's service, because he did not like the sea? Yes; sir William Gell asked me to do him the favour of sanctioning this man's discharge; I called Carrington, and said, "Carrington, what do you wish to leave the service? I hope to God you will not leave the service; he said he was very anxious to leave the service, he was pressed into it, and did not like the sea." I think those were his words, as nearly as I can be upon my oath; I was surprised when this discharge was asked for.

Do you recollect any correspondence with the Admiralty on the subject of his discharge? I never had a correspondence with the Admiralty on the subject, and I did not know there was any correspondence with the Admiralty on the subject; if I had I would not have given him his discharge. I could not fly in the face of the Admiralty; because I think it was an improper thing captain Jones discharging him at my request; if there is any blame for discharging him, I hope it will be attached to me.

Earl of *Lauderdale*.—Was there any engagement that Carrington should be rated as a midshipman, or any understanding on that subject, at the time he came on board your ship? No, he was drafted, I believe, on board the Poictiers from another ship; I had never seen him till then.

Was there any engagement during the time of his service as a quarter-master, that he should be made a midshipman when he was serving in your ship? Not by me, there was no engagement.

Lord Chancellor.—Did William Carrington leave the service in the year 1811? Yes, he did.

Had he, or had he not, been a midshipman for twelve months before he left the service? No; he had never been a midshipman before he left the service, to my knowledge.

Did he ever decline the appointment of midshipman? I never offered it to him.

Do you know whether he did or did not receive midshipman's pay for a twelvemonth? The ship's books can best tell that; but I

should say no; the ship's books are always regularly kept, and can be referred to.

Earl of *Lauderdale.*—Do you remember desiring Carrington to go down to the Thisbe, and ask for his papers? I do not remember that, it is ten years ago since this occurred; but I got him put on the Thisbe's books, in order to get his pay for him; therefore I think it is probable it was so, but I cannot charge my memory with it exactly; the Thisbe was the flag ship in the river.

At what time did you get him put upon the books of the Thisbe? He was discharged from the Poictiers into the Thisbe in order for him to get his pay; I think it was about June or July 1811; I was on shore at the time.

You are certain that you never gave Carrington any reason to expect promotion as a midshipman during the time he served as a quarter-master? Not while I was in the ship.

Did Carrington ever state to you any difficulty, in point of expence, of dressing himself, and maintaining himself as a midshipman? No; if he had I should have maintained him, as I did others in the service, till he could pay me again.

Earl of *Liverpool.*—Did you so act towards Carrington, or Carrington towards you, that Carrington could have been led to think he was a midshipman?

Before the Answer was given, a second question was proposed.

Lord Chancellor.—Did Carrington, while he was on board the Poictiers, ever act as a midshipman? He never did. I should wish, in justice to Carrington, to answer the question, whether he was ever led to believe that he was hereafter to be a midshipman; he never was led to expect that from me. I am about to give my opinion, perhaps it is not evidence; I understand the noble lord's question to be, Have you any reason to believe that he was led to expect that from any body else? my answer was going to be, that the first lieutenant had so good an opinion of that man, I do not know what he might have held out to the man while I was absent; but I never held it out myself. I refer to lieutenant Alcock, now captain Alcock; I do not know that lieutenant Alcock did.

Earl of *Lauderdale.*—Did you ever tell Carrington that he was to be on the quarter-deck; and do you recollect Carrington replying, that he did not wish to be on the quarter-deck, for he had no friends or money to support him on the quarter-deck? He never told me any such thing; and after I knew he was to be sir William Gell's servant, it was very unlikely I should propose to him to be an officer in the service.

This never passed before you knew he was to be sir William Gell's servant? Never.

Carrington having informed this House that he did not go upon the quarter-deck for some time after he joined the Poictiers, was he ever on the quarter-deck of the Poictiers? He never was on the quarter-deck, except when his duty as quarter-master led him there.

Earl *Grey.*—Did William Carrington apply to you at any time after he had left the Poictiers, respecting his pay? He did.

Do you recollect what passed between you and him upon that subject? I think it was four or five years afterwards; I met him in the street, or he waited upon me; he said, I have not got my pay, captain; I said, I will get it for you; and I was the means of its being procured.

Did you give him a letter to a gentleman at Somerset-house for that purpose? I either gave him a letter, or went to Somerset-house myself, I do not recollect which, but I know I got him his pay.

Do you remember, at any time previous to his discharge from the Poictiers, having any conversation with him respecting his wish to leave the service? Yes, I remember rather reproaching him for quitting the service, and saying, "I was quite astonished he had quitted the service, particularly as he was so comfortably situated on board the ship;" I was displeased with his quitting the service, I did it to oblige sir William Gell; I did not like so good a man quitting the service, and the reason he gave me was, that he was pressed into the service, that he never liked the sea, and was anxious to quit it.

The question related to any time previous to his quitting the Poictiers? The answers he gave previously and afterwards were exactly the same.

There was nothing passed relative to his inability to support the expense of being on the quarter-deck? Nothing.

Lord *Colville.*—Do you know that Carrington, whilst doing duty under your command on board the Poictiers, knew what his rating on the ship's books actually was at the time?

Mr. *Brougham* humbly submitted that, for this witness to be called on to depose to what he knew of what the other witness knew, was not evidence, unless he was asked as to some fact which brought Carrington's knowledge within the witness's knowledge. As it stood, he thought the question a droll one.

Lord *Colville* said, that he had put the question in consequence of Carrington's own evidence, that he believed himself to have been rated as a midshipman on board the Poictiers, while under the command of sir J. Beresford. He had, therefore, good reason to ask, whether Carrington must not have been aware of his own rating; he thought he must have been. No man had a greater respect for the high legal talent of the counsel at the bar than himself, but he did hope that their lordships would not be of the same opinion with that learned gentleman. The learned counsel was not justified in saying that the question was a droll one.

The *Lord Chancellor* said, that it was not

for their lordships to discourage any objections which might be urged by the counsel for the Queen upon legal grounds. At the same time he thought that the proper question to introduce the one which had been propounded would be—whether the witness knew whether Carrington did or did not know how he was rated.

Lord Chancellor.—Do you know, from any fact or circumstance, within your own knowledge, that Carrington did know how he was rated? Every man and officer in the ship knew how they were rated, to the best of my knowledge and belief; I never hid the rating from any of them; but with six hundred people in the ship it is most impossible I can recollect the rating of every man ten years ago; but I believe he knew it.

Are you certain that Carrington did not know he was rated quarter-master? I should think he knew it, as he always did his duty as quarter master; but he and I never had any conversation upon that subject.

Lord *Combermere.*—Do you know whether Carrington ever messed with the midshipmen? He never did.

Earl of *Winchelsea.*—Was the pay which you state you obtained for Carrington some time after he was discharged, either by personal application at Somerset-house, or by letter, the pay of a midshipman, or the pay of a quarter-master? I believe both; the pay of the midshipman's part of it, could only have been a few days, because he was discharged into a ship to get his pay as a midshipman; therefore for those two or three days he must have been paid; but the Navy-office books can best state this.

Lord Chancellor.—According to the course and practice of the naval service, is not every man rated according to the duty he does on board the ship? Generally speaking.

Duke of *Clarence.*—During the continuance of William Carrington on board the Poictiers, was he on any occasion particularly recommended to your notice by the first lieutenant? Not that I know of; but he was a very great favourite of the first lieutenant's, being a very good man, and the first lieutenant was very loth to part with him.

Where was the Poictiers employed during the twelve months that he was on board that ship? The first part of her service we commanded at the blockade at Brest, then at Lisbon, then in the North seas.

Did Carrington come on board with a draft of men, or was he received on board on the ship's being first commissioned? As far as my memory charges me, with a draft of men from the Majestic; I think there were six or eight of them.

During the continuance of Carrington on board the Poictiers, was the ship in course of payment? I cannot say positively, but I think she was.

The ship's books will prove the fact? Of course.

Earl *Grey.*—What was the name of your first lieutenant? Lieutenant Alcock, now a captain.

Where does he live? Near Carmarthen, in South Wales, and a most able and excellent man he is.

Do you know where captain Jones, who was the acting captain at the time of his discharge, is? I do not, but I know captain Alcock's residence from being in the habit of corresponding with him; I had a letter from him about two months ago.

The Witness was directed to withdraw.

Mr. *Brougham* trusted, in reference to the examination of Pomi on Saturday, that their lordships would allow him to state, that notwithstanding their lordships had appeared to be of opinion that the Queen's counsel could not cross-examine him as to the bribe attempted to be given to him by one Riganti, if he would submit to be the agent of Vimercati, one of the Milan Commission, although their lordships at the time seemed to object to the question intended to be propounded, her majesty's counsel did not wave it altogether, but reserved it to a future time, in case they should be afterwards able to show other acts of the same kind; and in case they should be able to arrive at that necessary and indispensable fact, of who the real party, the prosecutor in this case, was; without which information, looking at the peculiar situation in which her majesty stood, it did appear to him that it was absolutely impossible for them to pursue any step towards that pure and substantial justice, which ought to be the object of every judicial proceeding.

The *Lord Chancellor* said, the witness (Pomi) had now been examined in chief, and also cross-examined. It was irregular to interpose between the examination and the cross-examination of a witness: whatever application the counsel might have to make hereafter would be then the subject of consideration.

The Counsel were directed to withdraw.

Lord *Calthorpe* rose, to express his great regret, that the noble earl at the head of his majesty's government did not take an earlier opportunity of saying distinctly, who was the prosecutor in the present case. It really did appear to him, that in the question now before the House—if they made it one of state, and in which the state was the aggrieved and complaining party—the Crown, as the head of the state, and not the king indi-

vidually, was, in a legal and constitutional point of view, the prosecuting party. He could only account for his noble friend's not having stated at an earlier day that important fact from the reliance of the noble earl upon the effect to be produced by their lordships' experience of his own fairness and candour, which he had so conspicuously manifested throughout the whole of this business, and which had drawn from the noble earl's political opponents even the warmest and most liberal acknowledgment. A close attention to the noble earl's conduct had only the more confirmed his opinion of the necessity that existed for its being still more clearly and distinctly stated, who the prosecuting party in this case was. It must be admitted on all hands, that his noble friend had, by his own conduct at least, exemplified a distinction which he (lord Calthorpe), for himself, confessed he thought clear and obvious, between the minister of the Crown as the head of the state, and the minister of the Crown individually. If he was wrong in drawing this distinction, he should be most happy to be set right by those noble lords around him, whose acquaintance with the constitution and political law must be so much greater than his own. To him this distinction was sufficient and satisfactory: and certainly he thought it would have been desirable, in order to have precluded all misunderstanding, to have stated the point much earlier. At the same time he must say, that he thought no parties in this case had so little reason to complain of that statement having been so long delayed as the learned counsel for her majesty: for he thought, that, if any advantage had been left on any side, as to refusing the knowledge of this particular, relative to the identity of what had been called an invisible, an impalpable, and an indefinable being; all that advantage had been with the learned counsel for her majesty, who had certainly had the opportunity of taking advantages of that odium naturally attached to a secret committee, and particularly as that odium must be necessarily increased by the object of the committee having been a foreign one. This subject had been so repeatedly brought up, that he could not feel satisfied without just attempting to explain to the House what seemed to him the correct view of the case.

The Earl of *Liverpool* felt himself called upon for some explanation, after the candid way in which this matter had been put to him by the noble lord who spoke last. He must express some surprise, that this subject, if there really was any difficulty about it, should not have been stated at the earliest stage of the proceeding, but should have been deferred to the present occasion. He himself had no difficulty in stating how he conceived the matter to stand; nor could he have any from the beginning. It might be difficult to make an analogy between a proceeding in their lordships house, considered as a legislative proceeding, and proceedings in other courts as far as regarded a question of who was or who was not the prosecutor; but about this question, in the present case, however the nature of the proceeding might have been objected to, there had been from the beginning, no mystery whatever. On the 7th of June, or thereabouts, he had laid on the table of that House, by his majesty's command, as he then stated, certain papers relative to her majesty's conduct when princess of Wales. The question being how these were to be disposed of, it was then also proposed by him that they should, in the first instance be referred to a secret committee. Many noble lords objected to that proceeding, and contended, that the proper course would be for the executive government, or for himself in the situation which he occupied under that executive government, to introduce a bill upon his own responsibility, founded upon the subject matter of those papers. Those papers were referred to a secret committee of that House, and that committee made a report upon them, which was now upon their lordships' table. The day after that report was brought in, he proceeded to lay upon the table, also, a bill; not a bill as of the secret committee, but as, undoubtedly, his own bill; as a bill (so far as, legislatively considered he could be) for which he was himself responsible. Such was the real course of the proceeding. Right or wrong, whichever that proceeding might be, was there any mystery about it? The House ordered the Queen to be furnished with a copy of the bill in question, and the attorney-general was ordered by their lordships, at the same time, to appear at the bar of their House, in order to make good the charges contained in the preamble. Whatever might be contended for upon the principle of analogy in a case like this, he maintained that the only and the proper course had

been taken. Whether the secret committee had reported rightly or wrongly, had nothing to do with the matter in dispute: if it had never existed at all, even that matter stood, as with respect to the present point at issue, on precisely the same grounds. The bill might have been brought in on other principles; and in the way in which it had been produced, he repeated there was no mystery whatever. He had already said, that, with respect to what might have taken place under the Milan Commission, he had no objection that, at a proper time, the most thorough inquiry should be instituted into that subject. But he did not consider that those who formed it ought to be mixed up with the present question, more than they legally and necessarily were. With regard to the present bill, he said, that it was introduced into that House by himself, in the firm belief that its preamble could be proved. Whether it would be or not would be for their lordships hereafter to consider: it would be for them, at a future time, to determine how far the accusations contained in the preamble were made out. Whatever their lordships judgment might be, he was sure they would be of opinion that there had been no mystery attempted to be kept up.

The Marquis of *Lansdown* said, that the question which on Saturday it had been urged, ought not to be asked, and was not to be answered, was now asked, and had been answered. After the explanation of the noble earl opposite (afforded with his usual candour), something like an answer had certainly been obtained. He agreed with the statement of that noble earl; and it had convinced him, that in this proceeding throughout they were entertaining a bill which the House had been led to entertain at the suggestion of the noble earl, and of the king's ministers; and that the counsel at the bar appeared for the purpose of instituting such an examination, as should certify to their lordships whether the bill ought to pass or not. So far the explanation was to be admitted: but if the House was placed in the situation of having for its own convenience, and with a view to the accuracy of its own determinations, thought proper to create a party, and to place that party at the bar, it behoved them to consider in what way that proceeding, so established, affected the interest of the individual who was the client of the counsel at their bar. When the noble earl opposite appeared to express some astonishment at the objection or difficulty which had been started not having been suggested before, he (the marquis of Lansdown) must beg leave to say, that to the best of his recollection and belief it had been repeatedly stated throughout the whole business. It had been stated in that House, and elsewhere, by the counsel at the bar; it had been reverted to in that House by noble lords and by the counsel at the bar; and had, in short, been reiterated in almost every stage of the proceeding. But since the noble earl did express so much astonishment that the objection had been so lately produced, he would tell him that, admitting the fact, there was at any rate some reason for it. The very proceedings of the House itself, on Saturday, raised this question—namely, How, and how far this creating and placing at their bar an unknown party, for the convenience of the House, affected the interests of the other party before them? The question had not been so raised before. What, then, was the nature of the proceeding of counsel at their bar on Saturday? To establish the fact of a conspiracy. To establish such a fact it was necessary to prove an agency. To prove an agent, it was necessary to prove, in the first place, a party as a principal. It was impossible for any counsel who knew how the law of the case stood, to bring home a fact of agency, without showing a principal. Concurring with the explanation given by the noble earl who had described the bill as his own measure introduced by himself, and to become afterwards the measure of the House at large, or not, according to the event, he rose chiefly for the purpose of expressing an opinion, which he really felt it an omission of his duty not to have stated on Saturday, after Mr. Powell's examination at the bar was concluded. Agreeing, as he had said, in the sort of opinion expressed by the noble earl, that only confirmed the feeling he before entertained upon the subject which he was about to mention, and induced him, with the greatest confidence to submit such opinion to the House—"that those letters from colonel Browne to Mr. Powell, and from Mr. Powell to colonel Browne—he meant their correspondence relative to the abstraction of a material witness in this case, when the evidence of that witness was required at the bar——were evidence which ought to be pro-

duced," considering the state of this proceeding, as instituted by the House for its own convenience, with a view, not to any particular purpose, but to the discovery of truth. That was its sole object; he supposed it to have no other object, no principal or party having any interest in the proceeding; because, in fact, no party existed as prosecutor, except that phantom, which, for the purpose of eliciting truth, their lordships had raised up, and which, in truth, was for their own convenience, but was not for the interests of truth. It was very certain, that, in many ordinary cases, the convenience of parties in proceedings was to be preferred to the interests of truth; and such a course might be perfectly prudent. But here, when they considered the unsubstantial party which they had created and brought to their bar, no such interests were to be considered; the sole and real important interests were those of truth. He had no hesitation in affirming, that it was their lordships duty to take care, lest in advocating the interests of their own party, raised up by their own power and permission, they proceeded hastily or incautiously, while evidence for the actual and more material interests of truth was strangely absent. Their lordships were bound, and should have felt it as he conceived, due to themselves, and to the ends of substantial justice and of truth, to have called for the production of so much of that evidence to which he had adverted as related to the great irregularity (to give it no worse a name) of the abstraction of a material witness, by Mr. Powell. When so much of that evidence as related to the affair of Restelli should be produced, he should take upon himself to call for the judgment of the House upon the matter, and to know how they stood in that respect. One word more before he sat down. His noble friend (lord Calthorpe) had taken a distinction upon a very material point, to which he could by no means subscribe. The noble lord had stated, that he saw a distinction, in the conduct of the noble earl at the head of the Treasury, as between a minister of the Crown and a minister of the king. He could not acquiesce in any such distinction; he knew of no such difference; he thought that the noble earl acted upon this, as upon all other occasions, as the minister of the Crown; and as the minister of the Crown their lordships knew him. Sure he was, that he only did justice to the noble earl when he said, that the noble earl would not submit to be considered as acting in any other capacity.

The *Lord Chancellor* would repeat the substance of one observation, in which he had been led to state what he had stated with respect to the abstraction of Restelli, and the difference between a present and a postponed examination. The same principle applied to the cross-examination of a witness who had been already examined in chief. His lordship then proceeded to point out to their lordships the disadvantage of delaying the cross-examination of the witness last at their lordships bar, and wished that any discussion that was not instantly called for might be deferred till that was over. A noble marquis had said that the question which was put on Saturday had been put to-day. He differed from the noble marquis: the question of Saturday he took to be a very different one, and the answer of to-day was by no means applicable to it. Why this point should have been pressed so often, or whether there should have been any delay of an answer, was a question upon which he would make no observation except this—that his professional experience very often furnished him with good reasons for delay. The fact was neither more nor less than this—that his majesty was advised to lay certain papers before that House, and those who gave him that advice were responsible for it; those papers being sent down, were referred to a secret committee; the committee made a report, and after that report the noble earl thought proper to bring in a bill founded upon it. Now this, he maintained, was no prosecution; for neither was there any prosecutor, nor any petition presented against such measure. The noble earl was answerable to the country for bringing in that bill, as all those were who concurred in advising that course; and upon this statement he contended that he was justified in saying, here was no prosecution. What he wished their lordships to do was, to proceed forthwith with the cross-examination that had been deferred, and then any question arising upon it might be impartially discussed; and, in despite of all the world, he might say, he was sure that it would be impartially determined.

Lord *Calthorpe*, in explanation, remarked, that what he meant to say was this; —that the noble earl, in relying upon the acquiescence of the House in his delay of

stating who the prosecutor in this case really was, had rested rather upon the weight of his individual and personal character, than upon any influence with parliament which government were usually supposed to exercise in such cases.

Earl *Grey* said, he only wished to state his dissent from one part of the statement made by the noble earl (Liverpool) to whom he gave full credit for candour and openness. But he had asserted, that those of their lordships who had opposed the appointment of a secret committee had contended, that a bill should be brought in upon the responsibility of ministers. What those noble lords, however, did contend for, was, not that a bill, but that a charge should be brought in upon the responsibility of ministers; and that ministers should not shelter themselves under the report of a secret committee. To the mode of proceeding by bill he had always had an invincible objection. With respect to the question immediately before their lordships, he thought that the noble earl opposite had made no answer whatever to the clear and convincing statement of his noble friend (the marquis of Lansdown), as to the difficulty, if not inability, of the learned counsel to prove the conspiracy, arising out of the circumstance of their not being enabled to cross-examine the agent of the party to the fact. Where agency was to be proved, that agency it was rendered nearly impossible to trace, if it could not be also proved who was the principal in it. From what had passed, he must assume, that government were the principals; and, that being assumed, it was to be inferred that every person employed by government in this business was their agent. Hence, it followed, that colonel Browne was an agent. He did not know whether they might consider Hanoverian ministers as agents; but colonel Browne was clearly one. Well then—a question had been put with respect to the conduct of one Riganti, who had been sent by colonel Browne for the purpose of procuring witnesses to go to Milan. When grounds were made to appear at their lordships bar for the assertions that had been advanced by counsel with respect to bribery, he apprehended that he must consider the government as being the principal, colonel Browne as their agent, and Riganti as employed by colonel Browne. There was, at least, that degree of bribery proved that they (their lordships) must know how far persons so empowered as Riganti appeared to have been, had been enabled to corrupt and tamper with witnesses, to the manifest perversion and destruction of all justice. It was now for their lordships to determine, how far they would allow counsel to proceed with those questions to which objections had been started on Saturday. If those questions were not to be allowed to be put by counsel, he now gave notice that he should, after the examination and cross-examination were concluded, submit to their lordships the propriety and necessity of their being propounded, in order that the House might know every thing which had been done by Riganti; and also because it was material to know every thing which had been done in this case by other persons acting under the commission. So convinced was he of the necessity of such questions being permitted, that he should certainly take the sense of the House upon the matter.

The Earl of *Carnarvon* considered that the subject now before the House was connected with a sort of collateral inquiry, which he agreed with his noble friend in thinking it was highly important to go into. In the circumstance related as occurring at Carlsruhe, there was but one witness Barbara Kress: she was sent for, it appeared, to Frankfort, to be examined by the Hanoverian minister, and was afterwards sent to Hanover. It was clear therefore that other persons had been employed in that witness's examination besides the Milan Commission. Who were they? or were ministers responsible for them as well as the Milan agents? How was the conduct of agents to be thoroughly sifted, unless it was known who those agents were, and by whom authorized? Perhaps it might appear, that there were other parties at work not connected with the tribunal of the Milan Commission. Were those parties under the control of ministers, or were they not? Were they included in that responsibility which ministers were ready to avow? It was idle to proceed in the cause, unless this information were fairly and fully communicated. How else were they to see their way through a series of proceedings in the collection of this evidence, in which both German diplomacy and German dexterity were mixed up in one confused mass? How else could it be known whether or no, compulsion had been used by parties in that almost invisible empire? It was most material to know whether cor-

ruption could be traced in any of the proceedings of the parties who acted in these despotic states. It was most material to know whether, before the evidence was submitted to the Milan Commission, it had undergone examination and garbling by the agent of any petty German despot, for whose acts no responsibility could be traced. These were the unexplained peculiarities of this so Germanized business. Let the ministers avow for whom they were responsible as ministers of the king of England. Did they mean also to say they were responsible for the ministers of the king of Hanover? If they did, perhaps it would be also necessary to know who were the responsbile advisers of the duke of Cornwall, or whether they might not have had any hand in procuring some of those horrible means which were as disgraceful as they were malignant. This information he thought absolutely necessary, because who could say whether they might not be called upon, before they came to a vote on the bill, to sit in judgment upon the criminal advisers of this most shameful and miserable proceeding? It had been said, that when the evidence in this case was terminated, it would then become their lordships' duty to decide upon the question, whether or no the preamble of the bill was proved. They would then, it was said, have to decide upon the evidence, which, in his judgment, contained the silliest deposition that had ever found its way into a grave proceeding; they would then have to say, whether the bill should be read a second time or not. He would not say that this would become a part of their duty — though strange enough had been that duty, as exercised by their lordships in this business, which bore no analogy to the ordinary judicial forms of the country — to its principles of justice, which seemed to have been long forgotten — indeed, he might add, to common sense, as well as to the spirit and practice of the constitution. Their situation was, indeed, anomalous, and utterly at variance with all precedent. It was said, that when called upon to vote for the second reading of the bill, they might devise some means of modifying the terms of the preamble, and designating the imputed offence in terms of less severity; that then they might call the act, perhaps, censurable, or change the force of its character. He would, however, plainly tell their lordships, that they had no way of making the matter palatable. In any way in which they viewed the going on with the bill, they would have to encounter new and more appalling obstacles. How could they vote the preamble of the bill proved, and then resort to a new measure of a different form? Such conduct would be a gross insult to the unfortunate woman against whom the bill was directed. That, indeed, would show that their lordships were

"Willing to wound, and yet afraid to strike—
Just hint a fault, and hesitate dislike."

He knew, indeed, that this course was suggested for the purpose of saving their consistency. But how would the voting all the charges proved, and yet abandoning the preamble of the bill, show their consistency? How would admitting the principle, and then recording a vote contrary to all justice and common sense, manifest their consistency? He implored them to avoid such consistency, and declared, that the only proof of rational consistency they had it in their power to show was, to abandon the course into which they had been betrayed. His own opinion he had long since declared, and he had no objection to repeat it; — namely, that, whether the charges were proved or not, this bill never should have his concurrence. Entertaining this opinion throughout, he had objected to, and had condemned their mode of inquiry from the beginning. For what purpose, he had always said, pollute their ears, disgust the public, and disgrace their Journals, with the detail of such gross and scandalous evidence? This, he repeated, was his opinion of the bill, and he had only to reiterate the necessity of stopping before their situation became inextricable. Their responsibility was great — their situation critical — and he again implored of the House to pause before that situation became irremediable.

The Counsel were again called in.

Then *Filippo Pomi* was again called in, and cross-examined by the Attorney General as follows, through the Interpretation of the Marchese di Spineto.

You have stated, that you resided in a house at the Barona, is that house now called the Villa Pergami? Yes, at present it is called the Villa Pergami.

How long has it been so called? A little time ago.

How long ago? After that Monfrini sold it, about three months ago.

Do you mean to swear, that it was not called the Villa Pergami until three months ago from this time? It was so called, even before then; Monfrini bought it, and after Monfrini sold it, it was called again the Villa Pergami; we always called it La Barona, and we then began to call it Villa Pergami, after that Pergami had bought it.

How long ago is it since you first called it the Villa Pergami? He bought it in the year 1816.

After Pergami purchased it, did you continue to work there as a carpenter for Pergami? I did.

Had you continued to work for Pergami at the Villa down to the time of your leaving Italy? When he was the master I worked for him; when other people have been the masters, I have worked for the other people.

When did you last see Pergami? This I do not quite recollect; it must have been in the month of August, I believe.

Where did you see him? At his house.

Did you see him any where else? I have seen him in no other place, for I never went out of the house.

Did you see him the day you left the Villa Pergami? I did not.

How long before did you see him? I left the Villa Pergami on the 20th of September; I had seen him in August, but I no not know the day, I cannot mention the day.

Will you swear you did not see him in the month of September? I cannot swear, it must have been the latter end of August, or the beginning of September; I cannot swear, I have not made a memorandum, and I cannot tell.

How long before you left the Villa Pergami, was it, that you saw Pergami upon your oath? I left on the 20th of September, and I cannot tell whether it was the latter end of August, or the beginning of September, I do not know.

How many days before you left the Villa Pergami did you see him? I do not know how many days.

Was it a week? More than a week.

Was not Pergami living at the Villa Pergami at the time you left it? No, he had set out, he had gone away, and I do not know when he went away.

Who desired you to come over here as a witness? No one; my own will.

Do you mean to swear, that you came voluntarily, without any application having been made to you for that purpose? I came here by my own will, because I heard that the advocate Codazzi was receiving witnesses, and I went to say, that I had to say something in favour of that lady, who had done a great deal of good.

A doubt being suggested, whether this was the full import of the Answer, the following Question was put:

Did you say, that she had done a great deal of good, or that she had done you a great deal of good? To me, and to all the people at the Barona; she has done me a great deal of good, and a great deal of good to all the people in general.

Do you mean to swear, that you went to Codazzi of your own accord, and that no application was made before that time to go to Codazzi? Yes, I swear that before any tribunal.

Did any body apply to you to go to Codazzi before you went there? No; I heard that Codazzi received depositions in favour of this lady, and I went to Codazzi willingly.

When was it you went to Codazzi? It was on the 24th day of August.

Was Pergami then at the Villa Pergami? He was not.

Do you know whether Pergami was at Milan at the time you went to Codazzi? As far as I know, he was not there.

Did any person desire you to come here from Italy to be a witness? There has been this Codazzi, who told me so and so, who told me this and this; if you have any deposition to make, you may go, because your deposition is good.

Were you examined by Codazzi? Yes.

Was any body else present when you were examined? No.

Codazzi having said to you that you might go, did you in consequence of that come here of your own accord? Yes, because I told him, that if it had been a business which required me to go a hundred miles, I would go willingly, because I would go *(volontariamente.)*

The interpreters being asked whether the whole of the answer of the witness had been given, they concurred in stating that the whole had been given.

After you were examined by Codazzi, and before you set out from Italy, did you see any other person on the subject of your coming over here as a witness? Yes, I had seen another English advocate at Milan.

When? The day after I saw Codazzi.

Who was with the English advocate when you saw him? I have been in his house, and I have seen only him; I went there by my own accord, as I did in regard to the advocate.

Did you see any other person besides the English advocate upon the subject of your coming here after you had seen Codazzi? Not at that time.

At any time? When he came one day to the Barona I saw him, the advocate Codazzi, and another person.

Who was that other person? I did not know that person.

Was he an Englishman or an Italian? I believe he was a foreigner; I believe he was an Englishman; for I did not speak to him, I merely took him up stairs to show the house.

Do you know Vassali? I do.

Did you see Vassali at any time before you set out from Italy? Yes, I saw him.

When was it you saw him; how long before you set out from Italy? It was in the month of August, but I do not know when; I have not present the day.

Was it before or after you went to Codazzi? It was after.

Did you come over to England by yourself, or in company with other persons? I came over in company with the head master, Giarolini, and three other persons.

Where was it you saw Vassali; was it at the Villa Pergami, or at Milan? I saw him at Milan.

Where? Near to his house; I saw him when he was getting into the carriage.

Did you call at his house? No, I have never been at his house.

Was that the only time you saw Vassali? I had seen him many times; I had seen him in the year 1817, and the year 1818.

Besides that time at Milan, have you seen him on any other occasion, on the subject of your coming here as a witness? I have seen him here; I do not know in what place; in this country, in London.

Did you pay your own expenses in coming here, as you state that you came voluntarily? I did not.

Who paid them? The head master paid all the expenses, for he paid for all.

Is Giarolini your head master, or who is your master? Giarolini.

Is he your master when you live at the Villa Pergami? He is.

What are you to be paid for coming here as a witness? Here it is; when I went to the advocate Codazzi, I told him, that if it was to be an affair of a little time, I had no objection to go; and I told him, that even if I was to go for a hundred miles, I would go without any interest.

What are you to be paid for coming here? As to the pay I cannot tell, because when I told to the advocate I told him that, provided they gave something to my family, I for that lady (her royal highness) would go to the end of the world.

Do you mean to say, that you do not expect to be paid any thing for coming here, for your loss of time? Hear me: if they will take care of my family, I would have no expectation in regard to myself, provided they took care of my family; and I would go to any place.

What were they to give your family? The sum is that they give a livre to my wife, and half a livre for each of my children, daughters.

Do you mean a livre a day? Yes.

Do you swear that that is all you are to receive, or expect to receive for coming here? This is for the assistance of my family; as to the rest, to myself, if they will give me something I will take it, if they do not give it to me, I have no claim, I do not expect it.

Will you swear you have made no agreement with any person for your own remuneration for coming here? Yes, this I can swear to, because I have made no agreement whatever; but as there are some people who have some claims, so I can have also some claims.

Then you are to be understood to say you have some hopes of being remunerated for coming here? I have told you I have no hope, for, for that lady (her royal highness), on account of the benefits that she has done me, I would go to the end of the world.

You stated, when you were here last, that when Restelli came to the Villa Pergami, he came together with the son of the head master; what is the name of that person, the son of the head master, who came with Restelli to the Villa Pergami? Antonio.

Antonio Giarolini? Yes.

Is not Antonio Giarolini an architect, as his father is? He is more clever than his father.

Did not young Giarolini, upon that occasion, take a plan of the house? Yes, they made a little drawing or design.

Did not young Giarolini, upon that occasion, make the drawing or plan? Yes, when Giarolini came to the Barona, with Demont and Restelli and other persons, there was Giarolini up-stairs, and they made this drawing or plan.

Did young Giarolini go away with them, after they had made the plan? No; the others went away in a carriage, and Giarolini and Restelli went out by another door; and when they were there, they began to leap for joy, and to congratulate each other.

You say you have lived at the Barona for so many years; do you remember when her royal highness was there with Pergami, any dances being given at the Villa Pergami? Yes, I remember them.

Do you know a person of the name of Antongina? He was the tenant of the parish, of the whole place.

What is the extent of the Villa Pergami and the land belonging to it? I do not know precisely.

The question is not precisely, but about what extent? It is an estate of a thousand pertica, all this house is about half a pertica.

How many acres? How am I to know that? I cannot know it.

You have stated you know the person Antongina, has not he a great many daughters? He has eighteen children between males and females.

Did his daughters use to be present at those balls? They came one evening, when her royal highness had expressed a wish to see all that family coming from one father and one mother.

What other persons used to be present at those balls, do you know? They were all people well brought up from their father, well brought up from their mother, well brought up; and when they were there, the father always was present for the good order.

The question does not refer to Antongina; but were there not many persons from the neighbourhood, of a low situation in life? There were other girls, but they were all well brought up people.

The question is, in what situation of life were they, not whether they were well or ill brought up? All gentlefolks.

Both male and female? Yes; this Antongina, we should call him a gentleman, and the others that came were all gentlefolks.

Do you know a person called Maria Galletti? Perhaps she may have come there.

Who is Maria Galletti? I do not know her positively.

Does not she keep the public-house called the St. Christopher. You must have mistaken the name; it is not Maria Galletti.

What is the name of the landlady of the St. Christopher? Rosina.

How long has she lived there? She has been landlady a long time.

Has she not been at those balls? Yes, she came, but because she had been brought by those other girls; but she is a respectable woman, she is not a prostitute (trappola).

Is she one of those persons whom you describe as the gentlefolks who used to frequent those balls? Yes, she came, and came only once, this Rosina.

Is she one of the persons that you describe as gentlefolks, who came to the ball? She was the mother of another girl who was used to go there; she was the mistress of this inn, called the St. Christopher.

Is there another inn at the Barona, besides the St. Christopher? There is.

Who keeps that? Pergami is the master.

Who keeps the house, who conducts it? The innkeeper is there.

What is his name? Giovanni Angelo Donnarini; it is now the son, but before it was the father, and was called Antonio.

Did his wife and her sister use to go to those balls? They came only once.

What is the wife's sister? She has no sisters; Donnarini has married a woman who has no sisters, who was an only daughter.

Do you know a person of the name of Battista, who lives at the Barona, a blacksmith? No, there is no Battista.

What is the blacksmith's name at the Barona? Antonio Manni.

Were he and his family at those balls at any time? No; first of all he has no daughters, and he has only three sons.

Was he at the balls, or either of his sons? No, I never saw any of them.

You have stated that you are a carpenter; do you remember at any time having occasion to do any work to a door up stairs at the Barona? Yes, to work; I have made all the doors, I have even worked at the house of the tenant.

Do you remember, upon one occasion, your going up stairs to mend a door at the Barona? How am I to remember that? I went up stairs a hundred times, now to mend one thing, then to mend another.

Do you remember when you were mending a door up stairs seeing her royal highness any where? No, in that time I have not seen her; I have seen her down stairs in the hall; up stairs, I have seen her in other places, but when I was mending the door I never saw her.

Did you ever see the princess in any room up stairs? I have seen her in her own room.

Was it at the time you were mending a door that you saw the princess in her own room? No, it was when I carried up stairs a chest of drawers, which had been put out of order.

Where was it you saw the princess upon that occasion? In her own room, when I was carrying that thing up stairs.

Was Pergami with her? No, I have not seen him.

Did you not see Pergami any where upon that occasion? No.

Will you swear you did not see Pergami upon that occasion, in the princess's bed-room? Yes, I can swear before God for this.

Did you at any other time see Pergami in the princess's bed-room? I never saw him there, never.

Have you never stated that you saw him and the princess in her bed-room? How can I tell such a thing, when I never saw him.

You are not asked whether you ever saw it, but whether you ever stated that you had seen the princess and Pergami in a bed-room together? I have told you that I know nothing at all of this affair.

Will you swear you have never said, that you saw the princess and Pergami together in her bed-room? Yes, I can swear even before God, that I never saw them in her own room.

You are not asked whether you ever saw them, but whether you have ever said that you saw them? I have said nothing of this business before; it was not me who went up stairs, for I have always had four or five men under me to work.

Have you not said, that you did go up stairs on one occasion with a chest of drawers? I have said that I went once up stairs in her room to mend this chest of drawers, because the drawers wanted mending.

Upon that occasion was it that you saw the princess in her bed-room? Yes.

Have you never said that upon that, or some other occasion, you saw the princess and Pergami together in her bed-room? How many times must I say the same thing; I have said, that I can swear that I never saw Pergami in the room of the princess, in the bed-room of the princess.

You are not asked whether you saw the princess and Pergami, but whether you ever said you had seen the princess and Pergami together in the bed-room? I never said, nor have I seen it.

Do you know the wife of the baron Pergami? I do.

Have you ever seen her at the Villa Pergami? Yes, before I set out she was there.

Before you set out for England? Yes.

Did you see the little Victorine at the Villa Pergami when you saw the wife there? No, the little Victorine was not at home; she was at school.

Where was she at school, do you know? I do not know the place.

You said, that many gentlefolks went to the ball at the Villa Pergami; state the names of any of the gentlefolks whom you have seen there? I cannot mention them.

Can you mention any of the ladies? I might mention Marianna Donnarini, I might mention Giuseppa Donnarini; and there may be other persons who, if they were before my eyes, I might recollect their names.

Who is Marianna Donnarini, and where does she live? At the Barona.

Who is she; is she a lady living upon her fortune? A girl well brought up, and the flower of gentlefolks.

Is she not the daughter of the man who keeps one of the inns at the Barona? Yes, she is the daughter of Antonio.

Examined by the *Lords*.

Earl *Grey*.—Was any proposition made to you to give evidence against the Queen, and by whom? No.

Did no person speak to you upon the subject of giving evidence against the Queen? There is Restelli, as I mentioned the other day.

Any other person? There was another person of the name of Riganti, who, when I went to his shop to buy snuff or something of the kind, told me———

Mr. Attorney General objected to the answer which the interpreter was translating.

Earl *Grey* conceived the interruption to be irregular. A question had been put, and an answer given; but, while the interpreter was translating it, he was interrupted by the learned gentleman. He thought it was the duty of the House and of the learned gentleman to hear the answer, and if it were then deemed illegal, it could be struck out.

Mr. Attorney General said, he would, for his own justification, call the recollection of their lordships to page 97 of the Minutes,* where the same thing was done by his learned friend, Mr. Denman, with respect to one of the witnesses for the bill. His learned friend had interrupted the witness in his answer when he came to the words "I imagine," observing that the witness's imagination could not be received in evidence. The objection was held to be a good one, and the rest of the answer was not taken down. The lord chancellor stated, on that occasion, that the witness might be allowed to give so much of his answer as could be legally heard; but that, when he was about to state his "imagination" of any thing, it was proper to interrupt him. His objection was of the same description. That which the witness had stated, as to Riganti's having applied to him to give evidence, might be received as evidence; but he contended, that any conversation between him and Riganti on that occasion could not be given in evidence. He knew that it could be afterwards struck out; but he opposed it at the moment, conceiving that ultimately it could not be received as evidence. He did not object from any fear of the answer that might be given to the question, but because conversation with another person could not be evidence.

The *Lord Chancellor* directed the preceding question and answer to be read, which was done.

Mr. Attorney General. — My objection is, that any evidence between the witness and another person, not a party here, cannot be received.

The *Lord Chancellor*. — Mr. Solicitor-general, do you wish to be heard?

Mr. Solicitor General said, he could not think it necessary to trouble their lordships with any remarks upon this question. From what the evidence disclosed, it appeared, that all the concern which Riganti had in this business was, to carry a message from Vimercati to Restelli. Farther than that, Riganti was quite a stranger to the subject of the present investigation; upon what principle, then, could any thing said by him to the witness be admitted as evidence? According to every rule of evidence which he had ever read or heard of, such testimony was totally inadmissible, and therefore he concurred in the objection urged by his learned friend. Upon the validity of that objection, it would be for their lordships to decide. In urging the objection, he and his learned colleague felt that they had done their duty, and having so done, they were quite indifferent about the result.

Mr. Attorney General referred to the objection urged upon this subject on Saturday, when it was maintained upon

* See Vol. 2, p. 892.

his side that there was no evidence whatever of the agency of Riganti in this business; that there was nothing, indeed, in proof to connect that person with the present investigation, and that consequently his acts or declarations were not admissible evidence on the bill before their lordships.

The *Lord Chancellor* inquired whether the counsel for her majesty had any observations to offer upon this subject?

Mr. *Brougham* declared, that he should be perfectly satisfied to leave it altogether to their lordships to decide upon the question, and upon the propriety of the attorney-general's interruption of the witness. Riganti was, he maintained, so connected with this business, as to render what the witness said admissible evidence. His connection, indeed, and agency upon this business, must be concluded from the evidence in page 410.* But he had other evidence to adduce in proof of that agency, upon which evidence he should remark hereafter. Without further evidence, however, he contended, that the evidence already before their lordships, afforded sufficient ground for putting the question objected to on the other side. That there was evidence of Restelli's agency, was now, he believed, admitted; and by whom was Restelli introduced into the business? Why, by Riganti, according to Restelli's own evidence; for Restelli deposed, that Riganti came to him and told him to go to the advocate Vimercati, who was notoriously an avowed agent of the Milan Commission. That in consequence, Restelli went to Vimercati; and further, that in consequence of his communication with Vimercati, he was examined before the Milan Commission. All these consequences, with the examination also of Restelli at the bar of that House, followed from what Restelli said Riganti told him to do. Restelli, it appeared, indeed, immediately commenced his course of proceeding against the Queen upon the communication of Riganti, for he went to Vimercati, to whom he told what he knew, as he said, the very day after that communication, and in a day or two after, he told the same story to the Milan Commission, which consisted, as he stated, of the advocate Vimercati, three English gentlemen, and two Italian amanuenses. Was it not then evident, that Riganti was the agent of the Milan Commission, who first set Restelli in motion? And, therefore, he argued, that there was sufficient testimony before the House to let in the question proposed by one of its own body. But he begged particularly to call their lordships' attention to the necessity of receiving this description of testimony; for, suppose he could prove, that agent after agent had applied to different persons to swear against the Queen — that bribes were offered, and promises held out, in proportion to the turpitude of the offences of which persons were called upon to accuse her majesty—that one person was offered a larger sum than others, if he would swear that he saw Bergami put his hand under her petticoats? Supposing that he should be able to prove all these things, and that divers witnesses had been tampered with by the base panders of the Milan Commission—that while the most corrupt means had been employed to collect evidence against the Queen, the most nefarious expedients had been resorted to, in order to dissuade, to intimidate, to bribe witnesses not to come forward in her defence — was it possible that their lordships, in dealing with this extraordinary Bill of Pains and Penalties, would feel themselves justified in preventing the production of such evidence? If, indeed, such evidence were rejected, would not their lordships, as a house of legislature, or as a judicial body, feel themselves in a most awkward situation, especially in coming to the decision of that great and important question, whether the bill before the House should be adopted or not? Could any man say, that his mind would not be materially influenced by such evidence, nay, that such evidence would not be sufficient to determine his judgment against the bill? If he should be able to prove, that such artifices as he had alluded to, had been employed to get up the testimony against the Queen, and if those artifices, or the agents employing them, could be traced to the Milan Commission, he submitted, that although he might be unable immediately to connect with that system the ministers of this country, whom he and his colleagues considered as their antagonists upon the bill before the House, that such evidence ought to be received. If he should be able to prove, that all the foul filth and false accusations which had been brought forward on this occasion against the Queen were originated, and matured through the Milan Commission, which was said to be now at an end, al-

* See Vol. 2, p. 1253.

though colonel Browne was still acting at Milan, he maintained that such information as he had described ought to be laid before their lordships, and consequently that the depositions of the witness at the bar, with respect to Riganti, were not only admissible but material. Could any man say, that if such details were proved, they would not affect his judgment upon the subject of this bill? If he could show that fellows went about offering other people's money, and not their own—for they really had none of their own to offer, while, if they had, it would be obvious that such wretches as the proof referred to could have no interest in criminating the Queen—if it were shown that many such offers were made *in pari materia*, how could any one doubt that a conspiracy existed upon this occasion? That he could not immediately bring home this conspiracy to lord Liverpool, or lord Harrowby, or the other authors of the present bill, who thought proper to sit as judges among their lordships, upon accusations preferred by themselves, he was ready to admit; but her majesty's counsel charged the prosecutors of the Queen with a conspiracy of the foulest kind; and for the sake of justice, as well as for the sake of its own character, we called upon this House to afford them every necessary facility for the full exposure of its character and conduct.

Dr. *Lushington* requested leave to say a few words in support of the question that had been put. It would not have been asked if it had not been for what occurred on Saturday; and looking at the manner in which the question was then disposed of, and what had just happened, he was in doubt whether he had not entirely mistaken the rules of evidence on this occasion He did not mean to contend, that this man, Riganti, was a general agent of the Milan Commission, but that he was employed as an agent for particular purposes—that he was employed to procure witnesses for the support of those charges—and he conceived their lordships ought to hear any evidence that could be produced on this occasion, with respect to any illegal means that might have been resorted to for bringing forward witnesses in support of the bill. Now, the question that had been put, as it appeared to him, came strictly within the rule that had been laid down, because it went to procure, for their lordships' information, an account of the manner in which Riganti had conducted himself when obeying the orders of the Milan Commission; and if it turned out, that, in obeying those orders, he had attempted by sums of money—by bribery and corruption—to procure witnesses, then, on every principle of justice, those acts should be detailed by evidence before their lordships. What would be said if such evidence were not allowed to be given? It would be said, that the interests of justice were entirely defeated. The Milan Commission employed Riganti to go and collect witnesses; and he did so by bribery and corruption, by every bad and objectionable means. The consequence was, that witnesses were brought to their lordships' bar to perjure themselves. Would their lordships decide on such evidence? Was it not proved by a particular witness that he was offered a bribe? Did not their lordships see, that, in those countries where the witnesses lived, bribes were to be had, and fortunes were to be made, provided individuals went before the Milan Commission, and gave evidence against her majesty? Not to hear witnesses examined on these points struck at the fountain of justice, and overturned the rules of evidence. When those persons went before the Commission they gave their depositions, and they were sworn to those depositions before that Commission; though on what authority they were so sworn, he protested he did not know. He knew not by what power it was, that a commission could be sent forth from this country to act under a foreign government, and having at the same time authority to administer oaths to witnesses, for the purpose of afterwards bringing them to England. When they came here with their depositions—when they were brought to the bar of that House—could it be doubted whether or not their lordships should take these circumstances into their serious consideration? Could it be said, that the government who brought forward this bill were not responsible for every act of the Milan Commission, and for every act done by every subordinate of that Commission? Could it be seriously said, that they would not receive the evidence on the points he had adverted to? And why? Because it was not deemed admissible evidence. But how stood the fact? The Milan Commission gave Riganti power to act in their behalf: it was in evidence that he was employed to procure witnesses; and they adopted his acts by examining the

witnesses he brought. Therefore, he hoped their lordships would be of opinion, that it was absolutely essential to the attainment of justice, that this evidence should be received, in order that the circumstances might be probed to the utmost; and then, he trusted her majesty's counsel would be able to show their lordships, that, throughout the whole of the scene where those criminal acts were stated to have taken place, there had been agents, almost without number, travelling through those countries, seeking out persons whom they supposed, by possibility, might have some knowledge of transactions relating to the Queen, and offering to them bribes, and seducing individuals, whose situations rendered them most likely to be induced to perjure themselves before the commission, and afterwards to come forward to support that perjury, at their lordships' bar.

Mr. Attorney General said, he was sure their lordships would pardon him for offering a short reply to the representations of his learned friends who had just argued this question; and he must confess, that he was somewhat astonished at the bold assertions made by those learned gentlemen—assertions which the evidence entirely negatived. He almost doubted whether his learned friend who last addressed their lordships had made himself acquainted with the evidence; because, if he had, he must have known that the administration of oaths by the Milan Commission, so far from being proved by evidence, was absolutely negatived. Restelli stated to their lordships, that no oath was administered to him; and as far as he recollected, every witness who was asked the question, denied the fact. He believed that no oath was administered by the Commission to the witnesses at the time they made their depositions.

Dr. *Lushington* here interrupted the learned gentleman. He would at once refer him to page 227 of the Minutes, where it was stated by Raggazoni that he was sworn before the Commission. The evidence on this point was as follows:—

"When you were examined at Milan, was what you said taken down in writing? It was taken in writing.

"Did you sign it? I did.

"Were you sworn? Yes, I took an oath at Milan.

"Who swore you? The advocate Vimercati.

"In what form? He told me, 'Are you ready to swear upon the truth?' and I said 'Yes, the truth.'

"Were you sworn upon the Gospels, or in what manner? He told me 'You are then ready to come and swear to the truth?' I said 'Yes, I am ready to come and swear to the truth.'

"Were you sworn upon the cross at that time? Yes, I took the oath upon the cross; I took the cross which I carry about me, and I kissed it myself before Vimercati."*

Mr. Attorney General maintained, that, taking the whole of the deposition of Raggazoni, it could not be said that he was sworn by the Milan Commission, as it only appeared from the evidence referred to, that the witness took the oath himself. [Here there was a laugh, accompanied by some exclamations of "Oh! oh!"].

The *Lord Chancellor* said, he believed that if a counsel had been so treated in any of the courts of Westminster-hall, he would have instantly left the court.

Mr. Attorney General resumed.—He wanted to bring the fact before their lordships, and to call on them to look minutely to the evidence as it stood on the Minutes. Restelli denied expressly that he had been sworn. If they examined the evidence of Ragazzoni by itself, and, still more, if they examined it in connexion with the evidence of other witnesses, the matter would at once be explained. The question put was, "Are you ready, if required, to swear to the truth of this deposition?" he answered "Yes;" and he then took out the cross, and kissed it himself. But this was no proof that any oath was administered by Vimercati. On the contrary, their lordships would find that the question relative to the administration of an oath was repeatedly put in the course of the evidence, and as repeatedly negatived. He would again state to their lordships, with perfect confidence, that if they examined the evidence fairly and candidly, they would see, that though the witnesses were asked, were they ready to swear to their depositions? yet no oath was put to them. They were all asked, if they were ready to swear; and they all answered that they were, if called on to depose upon oath. In saying this, he stood in their lordships judgment; and, of course, his assertion would go for nothing, if it were not borne out by evi-

* See Vol. 2, p. 1096.

dence; but, on examining the evidence, it would be found that no oath was administered to the witnesses by the commission; but, as he had before said, they merely stated what they knew or had seen connected with the subject under investigation, and they were asked whether, if required, they were willing to be examined on oath. This was all that took place, and no oath was administered. Why did he state this? Because if assertions were confidently made on the other side (assertions which had no more to do with the question than the most remote subject that could be discussed), they must be met by a reference to facts. What was the question they were now called on to decide? It was merely this—whether or not it could be inferred, from the evidence given by Restelli, that there was that sort of agency, on the part of Riganti, which his learned friends themselves admitted must be proved, before a particular line of examination could be pursued. He denied that any evidence had been given that could lead to such a conclusion. It was asserted, on the other side that Restelli had offered money. It was not necessary to go into that point now: it might hereafter be adduced in contradiction to what that individual had sworn; but he could not allow the witness, who had stated that Restelli offered him money, to go further, and detail a conversation he had with another person. It was now stated, that Riganti was the agent of the Milan commission, and therefore, that evidence respecting him ought to be received. But, where was the proof of this agency? All that was said by Restelli was, that a man of the name of Reganti, a tobacconist, came to tell him that the advocate Vimercati wanted to see him; and his evidence then went on thus:—

"Was any body with the advocate when you first went?—There was not.

"Did the advocate then take your deposition?—He did not.

"Did he ask you any questions about what you know?—He did.

"How soon after that did you go before the commissioners?—I believe a day or two after.

"How many persons did you find assembled, there?—There was the advocate, three English gentlemen, and two Italian amanuenses.

"Did you then tell the same story you have told to-day?—I did.

"Was it taken down in writing?—It was.

"Were you sworn to the truth of it?—They did not swear me, but they told me that I should be obliged to swear to the truth before a tribunal; I said I would.

"Did you then take out your own cross and kiss it?—I did not. I was not then to take an oath; he only told me that I should be obliged to swear, if the occasion should require, before a tribunal; and I said that I would."*

All that they were told, therefore, was, that Riganti came to this witness from Vimercati; and from that his learned friends concluded at once that Riganti was the authorized agent of those persons who formed the Milan Commission; that he did not not go to Restelli only, but that he was an authorized agent, appointed specially to collect evidence. If, on so slender a ground, they let in evidence of this nature, their lordships could not tell where they were going, or where they were to stop, on such an occasion. They would, in fact, be trying collateral issues, instead of being guided by proper evidence—that which alone they ought to look to—namely, the truth or falsehood of the preamble of this bill. They were asked to proceed in a different course; to admit evidence, which would be received in no court whatsoever, even in a civil case. It was clear, *ex concessis*, on the other side, that this evidence could not be admitted, unless proof were given of the actual agency of Riganti. No such evidence had been given, or was now offered. When that agency was established, it would be time enough to see whether, even then, such evidence as that contended for could be received. At present, it was sufficient to inquire, whether there was any evidence of such agency. Could it be admitted, that, because a servant carried a message, his principal became accountable for all his acts? Undoubtedly not. Here nothing appeared, but that this Riganti told Restelli to go to the advocate—and that he went in consequence. But, admitting this, was such a circumstance to let in all his acts and all his statements, as evidence? He interposed this objection. It would be for their lordships to decide, whether they would be guided by the rule they had laid down themselves whether they would

* See Vol. 2, p. 1253.

be guided by the rules that obtained in courts of law. He conceived that the decision their lordships had arrived at on Saturday, and which appeared so clear that it occasioned little argument, supported the answer given by him and his learned friend to the other side. It was so clear, that, after refusing the question which was then put, he thought it was impossible for their lordships to admit the question which was contended for on the present occasion. There was no more reason, in his opinion, for letting in the confessions and declarations of Riganti, than there was for admitting those of any other individual who had chanced to be named in the course of these proceedings.

The *Lord Chancellor* thought it was his duty to state, that, according to any understanding he had of the principles and law of evidence, these declarations could not, in the present stage of this proceeding, be admitted; and, if any noble lord could entertain an opinion, that, according to the course and practice of the Courts below, the view which he (the lord Chancellor) took of the subject could be so far contradicted as to have it shown that the practice of those Courts would let in such evidence, it would be competent to that noble lord to have the advice of the learned judges on the question, and he would feel obliged to the noble lord who called for that opinion, in order that he might thereby correct his own. So far from his mind being satisfied with what passed on Saturday last, he did assure the noble earl (Grey), that, recollecting what had occurred on that occasion, he had since paid much attention to the subject. There was a great deal of good sense in a few words of bad Latin,—"Qui pauca considerat facile errat;"—and he had not failed since that time, to put to himself several questions on the subject—to reconsider it, in fact, as it has undergone so little discussion. In the first place, he would call back their lordships' recollection with respect to what passed as to the witness Restelli. He stood on their Minutes as having given particular evidence—and witnesses were called to their bar (and, he thought most properly and justly called to their bar, in the absence of Restelli, considering that absence not to have been occasioned by the party opposed to the bill), in order to state declarations that had been made relative to that person, with a view to his contradiction; and the witness was asked a question, whether Riganti had ever made any declaration to him? This, taking it in any point of view their lordships pleased, could not be admitted, under the present circumstances of the case. And here he hoped he should not be told, in any future stage of this question, that there were any noble lords sitting in that House who could have any anxiety with respect to personal convenience. He protested against it as the most unjust thing that could be imagined—as a thing that could not be tolerated. He would put what he was now about to state in a purely hypothetical manner. He would suppose, hypothetically, that the government might be called, if they pleased to give them the name (as odious a name as could be given to them)—the prosecutors on this occasion; that the Milan commission were, as they had been called the other day, a branch of a joint-stock company: assuming this to be true, he would suppose that the government, or the Milan commission, or both, having been distinctly proved to be the prosecutors in this business, had employed certain agents, whose acts were to be made evidence in this proceeding; it could not be done unless proof were given of that agency; and, in this case, no proof was given that Riganti was an agent to any body. Now, before the act of an agent could be given in evidence, he was justified in saying, that the agency must be established. There were various ways to establish the fact of agency. It might be established by the admission of the principal; it might be established by the agent himself making proof of the fact; and it might be established by the evidence of other persons, with respect to the acts of the person represented to be the agent. The law allowed the agent to prove it himself, which was a better mode than by having recourse to the evidence of third persons. The agent might, therefore, be called to prove what came within his own knowledge. This was not attempted here. Was there any admission of the principals in this case? Certainly not. Suppose the acts of Riganti did not prove him an agent, had he been called himself to show his agency? He had not. Was there, then, any proof given by other persons? He knew it might be said—and, in all probability, it would be said—that it was placing individuals under great difficulties if they were asked to call persons

to prove an agency, who might also prove other circumstances which the party by whom they were called did not wish to give in evidence. Supposing it to be so, were the rules of law, therefore, to be broken down, in order to remedy the inconvenience? The third species of proof was from acts done by the person alleged to have acted in the character of agent. Now, if their lordships would look to the evidence, page 410, 411, 412, they would see that there were no acts given in evidence which proved agency:—"Who sought you? The first time, a man of the name of Riganti came to tell me to go to the advocate."* Was it, then, to be contended, that because Restelli, in consequence of a message he received by Riganti, went to the Milan commission to be examined—was it therefore to be contended, that Riganti was agent to the Milan commission? Because one man was sent to call another, was agency to be inferred? He could only say, that in the course of his experience, such a proposition he had never heard. The counsel for her majesty were bound to call Riganti, then, if they meant to proceed upon his acts. His lordship did not know how he should act, if called upon to give his opinion judicially upon the obligation to tell where Riganti was to be found; but, if he were asked where he was, and knew where he was, he would have told it at once. If their lordships should, without calling Riganti, suffer counsel to give evidence of what Riganti had said, where would they stop? If they called Riganti and proved agency, then they might proceed to hear evidence of his sayings and acts. But, otherwise, the consequences might be monstrous. There might be conspiracy on one side as well as on the other. He did not mean to throw out any insinuation. Whatever the result of this inquiry might be, he would never forgive himself if he threw out any thing to fix an imputation during the inquiry. But there might be conspiracy against conspiracy. If, then, nineteen or twenty persons should come before them, and swear that they had been offered money, how could their lordships say on which side those who offered money were employed? They must prove a great deal to prove an agency by the acts done. This was not proved in the present instance; therefore the agent must be called, whatever might be the consequence of calling him, if his acts were to be given in evidence. This was his view of the present objection. It would be a great relief to him if any noble lord would draw up a question to be submitted to the Judges respecting this point. He felt always great reliance on the experience and wisdom of the Judges, and the sanction of their authority was a great relief to him in every case of legal difficulty.

Earl *Grey* said, that the noble and learned lord had correctly stated, that when he proposed that this question should be put to the witness, he did it in consideration of the decision of their lordships on this point on Saturday last, not believing that that decision was right in the peculiar circumstances of this case. He had been desirous that the attorney-general should state such objections as might occur to him, that their lordships might deliberately consider the subject, with the manner in which the attorney-general had supported the objection. The objection was ably made by the attorney-general, and ably supported by the noble and learned lord. He might perhaps expose himself to the imputation of pertinacity, when he still persisted in entertaining the opinion that the question ought to be put. The statement of the noble and learned lord as to the practice in the courts below was, no doubt, quite correct; and if the point were submitted to the learned judges, their decision would be such as the noble and learned lord had stated, and therefore he had no wish to refer the point to them. He would admit that, according to strict and technical rules of law in other courts, the question could not be asked. But the question was here, whether their lordships were bound by those strict and technical rules, or whether the peculiar circumstances in which they were placed, did not require some relaxation of those rules, and authorise them to do what, in other circumstances, would be irregular? He had admitted before, that it was desirable, that the House should restrain itself as much as it was possible by the rules of law; but the House was not to be restrained from a departure from those rules when circumstances justified such a departure. The question was, then, whether they were here so situated as to be authorised to depart from strict rules of law? What was their situation? It was admitted on all

* See Vol. 2, p. 1253.

hands, that the general agency of Riganti was not so proved as to authorise questions to be put respecting his acts and sayings. But he begged their lordships to recollect that this was a bill of pains and penalties—a bill of pains and penalties proposed by his majesty's government—a bill of pains and penalties supported by evidence collected by a commission which had been appointed by the government. It was a severe and anomalous measure, to deprive the Queen of her rights—to degrade her from her dignities—to remove her from the rank and station which belonged to her. Whatever, in the course of such a proceeding, appeared at all suspicious or tainted, ought to be rejected. He agreed with a noble lord, that in such a proceeding they were bound to see that the evidence should be not only unsuspicious, but unsuspected. It was proved by Restelli that Riganti had been employed to bring witnesses to Milan. Restelli said Riganti came to him to desire him to go to Milan, to give his deposition, and he in consequence went. Where got Riganti this instruction to seek for witnesses and to get them to give evidence? When their lordships found this fact established, and when they found that he went to a witness and stated,—"If you will give particular testimony, you will get a great reward;" who could deny but this must affect the bill before them, and influence their decision? He admitted, that a general agency was not proved in such a manner as would authorise the calling of evidence to the acts of the agent in the courts below; but such acts were proved on his part, under the Milan commission, to collect witnesses and to suborn testimony, as made it the duty of their lordships to go into the inquiry, in order to see that they were not imposed on by corrupt and suborned evidences. These were the general views on which he thought it justifiable to depart, in such a case as the present, from the strict rules of law in the courts below; for, thank God, no similar cases were to be found in those courts. He felt great reluctance to press what had been opposed by the noble and learned lord; but, by whomsoever the witnesses had been acted on, and by whatever means evidence was corrupted, those agents, and those means, he felt it his duty to require to be fairly exposed to their lordships. Therefore he pressed his opinion, if any noble lord supported that opinion; for he knew not whether any other lord entertained the same views on this point. He had no interest one way or other. He only wished the case to be laid fairly and completely before them, that no decision might rest on suspected, contaminated, and corrupt evidence, and that no unexamined and unascertained imputation might rest upon the proceedings.

The Earl of *Liverpool* said, he understood the noble lord to admit, that if the question arose respecting a conspiracy in the courts below, he did not dispute the law of his noble and learned friend, but to contend, that upon the specialty of the case, upon the extraordinary circumstances of this bill, their lordships ought to be induced to depart from the course which they had hitherto adhered to, and which was always adhered to in the courts below.—Now, this appeared to him a most awkward period to adopt a proposition of this nature, when hitherto they had governed all their proceedings by the understood general laws of evidence. He admitted, that there was no absolute obligation to adhere to those laws; it might be often necessary to open a wider door for evidence than those laws allowed. As their legislative functions were unlimitable, it was impossible to say in what situation they might find themselves to which the ordinary rules of law could not apply. The necessity of departing from those rules was to be deprecated, and therefore their lordships had imposed on themselves the shackles of law. He put it therefore to the House, whether, in this part of the case, they would suffer questions to be put which might lead to an inquiry that would be interminable, or at least most extensive. It was not this particular question only that they would be called on to allow. If their lordships departed here from their usual course, they must depart from it on every important inquiry that could be suggested. The noble earl had said, that they were not to be bound by the nice and technical rules of law. But this was not a nice and technical objection, as many objections, he admitted, were, but was founded on the eternal principles of justice itself. It was this—that where the principal was to be affected by the acts of the agent, there ought to be the clearest evidence of agency. Speaking generally—for he now did not allude to this particular case, but speaking generally—nothing was easier than for one side to employ as agents

for the other, persons who should commit various acts of bribery and corruption, and then to bring forward those acts as done by the agents of the adverse party. Let their lordships only see what monstrous injustice would thus be done. He could not conceive any principle more intelligible to common sense, and that ought to be more intelligible to every professional mind, than that the clearest and most intelligible evidence ought to be given that individuals are agents, before their acts can be received as evidence against their principals. He would desire their lordships to look at the evidence for proof of any agency on the part of Riganti. They would find no more than this—Vimercati desired Riganti to tell Restelli to come to him. He did not say even to be examined. This was a message only, as it stood upon the evidence. To proceed on this as evidence of agency was to violate not only every principle of established law, but every principle on which substantial justice and substantial law were administered. He agreed with the noble earl, that every part of the evidence in the case which was doubtful or suspicious, ought to be left out of view. This bill could not be passed but on clear and indisputable testimony only. Evidence which could be fairly objected to, he did not say by counsel at the bar, but by any peer, as tainted with suspicion, ought not to influence the final decision of their lordships. They were to strike out every thing suspicious. He could not, therefore, see how the refusal to go into this inquiry could prejudice the illustrious person whom it was supposed to favour. As to the Milan commission, he had already said, that he had not the least objection to go into the fullest investigation respecting it; but he objected to that investigation being introduced by a side-wind, in a most inconvenient stage of the proceeding, when their lordships found themselves so fettered and embarrassed that they could not do it justice. Let it be introduced on its own grounds, when there would be this advantage—that their inquiry would not be shackled by rules of evidence. Whether he considered this question in its bearing upon the case before them, or on the principles of general justice, in the present state of the case, whatever might appear right and necessary in different circumstances, he could not bring his mind to consider it consistent with justice to put the question proposed.

Lord *Erskine* said, that the question for their lordships to consider was, whether the putting of the question proposed was not necessary to their information when they came to make up their minds on the fate of the bill? The noble lord had stated, that the House having bound itself to be regulated by the rules of the courts below, it was now too late to depart from the course they had so laid down for themselves. To that he was willing to assent, if the question on which the debate arose did not stand upon different grounds from the other parts of the evidence. That it did so his noble friend had already succeeded in showing. Before he proceeded any further, he was anxious to correct a misstatement which had gone abroad, with respect to some expressions stated to have been used by him on a former occasion. He had never said that the Milan commission, unexamined as the question was up to this moment, was concerned in the subornation of persons to swear against her majesty. He had never said any such thing; on the contrary, he could bear testimony to the character of Mr. Cooke, with the whole of whose professional life he was acquainted, and he had no reason to believe that the other gentlemen connected with him were not also persons of excellent character; but this he would say, that if they were angels, instead of honest men, the evidence might be contaminated before it came to them. It was for their lordships to consider, whether, after so much of the evidence had been shaken, they would now prevent a question from being put, the answer to which might be of such great importance—whether they were prepared to say that the proofs of conspiracy ought not to be inquired into. For his own part, he thought they should, and he would caution the House against coming too hastily to the opposite conclusion. He would beg to recall to the recollection of the House the candid and honourable declaration of the noble earl opposite, that their decision should be founded upon pure and unimpeachable testimony alone, and that whatever was doubtful should be dismissed from their minds. His own opinion was not more entitled to consideration than the opinion of any of their lordships, except so far as the habits of his professional life might be supposed to afford him an advantage. On looking to the evidence, as far as it respected Riganti, he would ask, whether,

even though it might not go the length of proving his direct agency, it did not favour the probability that, some how or other, he was connected with this proceeding? That probability was itself a reason why the question should be put. His lordship then referred to the evidence of Restelli, the inference from which he contended was, that Riganti took an interest in the proceeding. Whether a corrupt interest or not would appear by-and-by, if they permitted the examination to be gone into. Their lordships were bound to inquire what inducement there was for his activity, and to see whether, in point of fact, there was any conspiracy or not. If they thought there was not, they would act accordingly; but how could they determine if they did not permit the examination to take place? He would not say that the Milan commission had been guilty of any disgraceful acts, but he would say, that when the whole power of government was on one side and a helpless individual on the other, the utmost care should be taken to investigate every questionable act that might have a tendency to injustice. He who had been so long experienced in the profession, could not but feel the vast importance, in all cases, of knowing who the witnesses were, and whence they came. That was an advantage from which, in the present case, they were unhappily precluded. Neither were they sitting in a court of justice, as they ought to sit, for he would maintain, and when the proper period arrived he would prove, that as a charge of high crimes and misdemeanors, it ought to have been conducted by impeachment. For his own part, he would never vote for that bill under any circumstances, if the examination was refused; if he did, his life would not be likely to close as it had begun. Were the Queen's character rendered as black by the evidence as in the opinion of some it might be considered purified, still he would not vote for the bill, if he was denied the opportunity of ascertaining whether any corruption had been practised against her. If their lordships rejected the question, they would, in effect, decline making any inquiry as to the corruption that might have been practised abroad; and, in a case which had already surprised them so often with unexpected matters, it was impossible for them to say what discoveries might yet be made under that course of examination for which he contended.

Lord *Redesdale* said, that the experience of ages had proved that the rules of evidence, as established in our courts of law, furnished the best means of ascertaining the truth. If, therefore, their lordships in this instance admitted evidence in contradiction to those rules, he contended that they would not proceed in the course which was best calculated to ascertain the truth. In all questions of agency, it was of the utmost importance to ascertain how far the party was to be considered as an agent, and to what extent his acts bound the principal. Suppose he were to say to any person, "John Thomas, I want to speak to you," or "John Thomas, desire such a person to come to me," would any man pretend to say, that by this act he constituted John Thomas, or the other person, an agent? Supposing therefore that Vimercati gave such a direction to Riganti, was that any proof of agency on the part of Riganti? It merely appeared that Riganti was employed to desire Restelli to go to Vimercati, as any other person might have been employed. To prove agency, it was not sufficient merely to show that the party was somehow or other connected with the principal, but it must be proved that he was fully authorised by the person, who might suffer from his acts. The strict rules of evidence had been followed on the part of the prosecution; and if the counsel for the defence were allowed to deviate from them, where, he would ask, would be the consistency or equity of their lordships' proceedings? Equality was justice, and would this be equality? This was a decisive ground, upon which he should strenuously oppose any deviation from the strict rules of evidence.

Earl *Grey* regretted that so much of their lordships' time had been consumed in the discussion of this question, and though he certainly remained unconvinced by any of the arguments which he had heard in the course of that discussion, he rose for the purpose of stating, that in order to avoid any further consumption of their lordships' time, he had no wish to take the sense of the House upon the question. He should wish it to be merely put and negatived.

The *Lord Chancellor* said, there were one or two observations which he was extremely anxious to make, in consequence of what had fallen from his noble and learned friend. His noble and learned friend had referred to what he (the lord

chancellor) had said on a former occasion, with respect to reserving his opinion as to the character of any of the witnesses till the conclusion of this proceeding. He was aware that strong impressions would now and then lead individuals to make use of unguarded expressions, and certainly his noble and learned friend had, in the debate to which he alluded, given a character to the witness which ought not to have been given. When he stated on the present occasion, however, that the evidence was to be looked to with extreme jealousy, he (the lord chancellor) entirely concurred with him. Whether that evidence were true or false must depend, not upon the contradictory testimony of an individual, but upon the result of proof, whether that contradiction was established. With respect to the bill itself, he would at present abstain from any observations, except to say, that looking back to all the bills of pains and penalties recorded in the annals of parliament, he had reason to congratulate their lordships that they had in the course of this proceeding governed themselves as nearly as possible by the rules of evidence which were adopted in the courts below. The evidence on the part of the bill had been gone through, attending to the strict rules of evidence; in what situation, then, would their lordships stand, if they were to deviate from those rules on the other side, and let in that species of evidence, for which he was sorry to say precedents were not wanting in former bills of pains and penalties?

The Question was then put and negatived.

The Counsel were again called in, and informed, that the Answer could not be proceeded in.

The Examination was then resumed.

Lord *King*.—Did Restelli say to you, that Demont either had received or was to receive a large reward for giving evidence against the Queen.

The following Extract was read from the former Evidence of the Witness:

"I asked him whether Demont was still in the service of her royal highness, he told me that she was; he did not mention to me her name on the day he was taking the drawing, but he mentioned it on the second day, and told me that she had made a good day's work; we were there at the inn, and we drank together."

Mr. *Cohen*.—He added these words: "And that, she, Demont, had gained a great sum."

The Question was withdrawn.

Do you expect you shall be paid more or less, in proportion as your evidence may be more or less favourable to the Queen? I have no hope; but I only say that if they give me, I will take it; but I have no hope.

The Witness was directed to withdraw.

The Marquis of *Lansdown* asked the counsel, whether the witness they proposed now to call was with reference to Restelli.

Mr. *Brougham* stated, in reference to what passed on Saturday, that he was not at present prepared to state what course he should pursue with regard to the general Case; but that he was for the present proceeding with Evidence to prove how the Case against her majesty had been prepared.

The Marquis of *Lansdown* added, that his reason for putting this question was, that he intended to submit a motion to the House on the subject of the correspondence of Mr. Powell with colonel Browne, and for this purpose he begged that her majesty's counsel would inform him when they had concluded their present course of examination.

Mr. *Brougham* replied, that they would not omit to do so.

The Earl of *Carnarvon* wished to know from the noble earl opposite, whether any person had been employed by government in Hanover to take depositions; he alluded especially to the testimony of Barbara Kress.

The Earl of *Liverpool* said, that he must answer the question quite off hand, but as far as his recollection went, the only agent employed by the British government in Hanover had been, the British minister.

Then *Bonfiglio Omati* was called in, and having been sworn, was examined by Mr. Wilde as follows, through the Interpretation of the Marchese di Spineto.

Were you clerk to the advocate Codazzi at Milan? Yes.

Was Codazzi concerned as a professional agent for her royal highness the princess of Wales? He was.

Do you know the advocate Vimercati? I do.

Had you at any time any communication with Vimercati respecting the princess of Wales's papers in Codazzi's custody? I had.

Did you in that communication explain to Vimercati your reason for coming to him? Because there was a person who had conducted me as far as his door.

Did you state that to Vimercati? I did not.

Did you state to Vimercati any thing which had passed between you and that person who had so brought you to Vimercati's door? The moment he saw me he knew me, and he told

me to bring him the papers belonging to her royal highness.

Did he offer you any inducement to bring those papers?

Mr. Solicitor General objected to this course of inquiry. He apprehended no conversation between Vimercati and the witness at the bar could be evidence as to the charges contained in the preamble of this bill. He should be glad to hear what arguments could be urged on the other side.

The Witness was directed to withdraw.

Mr. *Brougham* said, it was convenient, not to say usual, before being called upon to defend a particular line of examination, to hear, not only the objections, but the grounds of the objections which were made to it.

The *Lord Chancellor* said, the counsel certainly had a right to hear the objection before they could be called upon to answer it.

Mr. Solicitor General said, the ground of his objection was so palpable, that he had thought it unnecessary to state it. He wished to know upon what principle of law any declarations of Vimercati could be made evidence in this proceeding. Supposing Vimercati to have been engaged as an attorney or advocate, his declarations could not be used for the purpose of establishing any fact. Unless he heard some arguments on the other side, all he could do was, to state, that he did not know how, according to the usual course any conversation between Vimercati and the witness could be evidence. If he were asked to go more into detail, he confessed that he was unable to do so; because he understood it to be one of the first principles of law, that a conversation which had taken place between a witness and a party who stood in the situation of an advocate or attorney, could not be made use of as evidence for the purpose of affecting the principal.

Mr. *Wilde*, in support of his question, observed, that he apprehended that it would not be made a question whether Vimercati was or was not an agent. On the evidence he stood a known and accredited agent of the Milan commission.

The *Lord Chancellor* said, it would perhaps save time, to refer to those parts of the evidence which went to support that allegation.

Mr. *Wilde* said, he was prepared to do so if it were held necessary, but he had concluded that the fact would not be disputed. The testimony of Gargiulo, in p. 131 of the printed Minutes, was clear as to the instrumentality of Vimercati. The witness was asked—"Did you see colonel Browne before you came from Italy to this country? Yes.—Were you examined then, just before your departure by colonel Browne? No: colonel Browne examined me last year, in December, as I have said before.—And a certain lawyer Vimercati, was present, was he not? Yes; Vimercati put the questions in the presence of colonel Browne.—Were your answers put down in writing? I believe so.—Were you sworn to the truth of them? I subscribed my name at the end of the paper; but I did not swear to it.—That was in the presence of colonel Browne and Vimercati? Yes."

From the evidence of Birollo it also appeared that he was examined before the advocate Vimercati. Ragazzoni and Mejani swore to the same effect. Omitting several intermediate proofs of the activity of this advocate, he called the attention of the House to the evidence of Guggiari. He was asked, "Were you examined at Milan? I have been by Vimercati.—Who took you to Milan? A man by the name of Massareni, of Lugano, took me to Milan.—When did you first mention this which you saw in the pantry? I have said it before the advocate Vimercati.—Was that the first time? That was the first time in which I have spoken of what I have seen.—Are you quite sure you never mentioned any thing of it to any body, until you saw Vimercati? He asked me whether I had seen something, and I told him I was always there; and he told me, will you have any difficulty to come and speak to a gentleman; and then this advocate Vimercati said, will you have any objection to come with me to Milan; and I told him yes, I have no objection, I will come with you to Milan.—In short, many other and perhaps stronger instances of the same kind of proof were to be found; for nearly all the witnesses had been examined by Vimercati at Milan, having been drawn thither by subordinate agents. If, therefore, his conduct was not to be made the subject of inquiry, it was very difficult to say whose might be examined. Vimercati and colonel Browne were the most active persons connected with the Milan commission. Upon the latter of these an eulogy had already been

pronounced, and it was complained by his friends that a great deal had been stated, and very little proved. Yet, now the proof was offered, it was resisted; and no doubt for very good reasons, though none of them legal. What the counsel for the Queen intended to do was, to prove a corrupt application on the part of Vimercati, sanctioned, as the evidence would probably show, by higher authority, to obtain possession of the papers of her majesty. Principals there were none had been often asserted, and now the House was to be told that there were no agents. If so, who was to be responsible? In any court a defendant would be permitted to show what had been the malpractices of the professional agents in getting up the case against him. The same indulgence, or rather the same right was here claimed for the Queen, who was prepared to show conduct on the part of the gentlemen to whom the witness had referred, such as before any learned judge now sitting on the woolsack would scout a prosecution from our courts: no judge would allow the ears of a jury to be insulted by the evidence of men who had been guilty of such base practices. He wished to show that Vimercati had corruptly endeavoured to obtain possession of the papers of the Queen through the clerk of her advocate in Italy. Undoubtedly, many cases might occur in the progress of this trial, where the Queen's counsel would be unable to supply every connecting link of agency with some degrading transaction: they might not be able to bring home the fact of bribery in all instances; but the situation of her majesty would be melancholy indeed, if, when such a detestable conspiracy had been formed against her, and she was provided with evidence to establish its existence, she were not allowed to bring it home to acknowledged agents, because the testimony might be defective in tracing their authority to some undiscovered principal. She might not be able to show always from what pocket the money came; but she could show that it had been employed, and that under its influence she was now suffering. This wicked conspiracy had been completed by the vilest corruption, and that corruption had been carried into effect years ago, by detestable agents, running from one end of Italy to the other. The Queen had already many disadvantages to contend with—one of them the lapse of time, which prevented detection—but none of them would be so destructive as a supposed rule of law to prevent her from exposing iniquity when she had happily discovered it. It was not necessary, in this instance, to argue upon probabilities, because here the fact was undeniable, that Vimercati was an agent, a most active agent; and if his acts were not to be examined—if the House so decided—the Queen's counsel must submit; for they had no remedy, no appeal.

Mr. *Brougham* said, he felt it necessary to say only a few words in addition to the very strong and clear statement of his learned friend. He was not much surprised, that those who had been so loth to allow him to speak of principals, should now be reluctant to permit him to detect the agents; for it was enough for the Queen's counsel to show, that they had got firm hold of an authorized agent, to warrant them in asserting that the principal was bound by his acts. He was not bound to bring home to this agent the authority of ministers, or of any other persons under whom he acted; it was enough to prove, that Vimercati acted under those who formed the Milan commission, established for the purpose of hunting the continent for evidence. In whose company was this advocate found? He was always seen co-operating with colonel Browne, the head of the Milan commission, and indisputably an agent. Mr. Powell, another member of that body had been looked upon so much as a confidential agent, that he was allowed to keep back information under that pretext. Next came Vimercati, upon whom a panegyric might now be expected, as none had been yet pronounced; for it was enough to bring the conduct of an agent in question, for the other side immediately to pronounce an eulogium upon him, as had been shrewdly observed by Mr. Wilde. Perhaps, however, it might be wiser if the attorney and solicitor general postponed a little the expression of their admiration. He wished the solid proof to precede it; and if that were received, it might render needless the empty praise. He was not sure that Vimercati was a member of the Milan commission; but certain he was, that a witness was never examined without his assistance; and his agency was not to be disputed, unless the other side meant to go the length of contending, that there was no Milan commission. Granting that the acts of Vimercati could not be examined, because

he was professionally and confidentially concerned; still, unless his employer were a principal party, it afforded the agent no legal protection; if it were otherwise, cross-examination would be destroyed, because every witness would shelter himself under the character of an agent to some party or other. Powell and Vimercati were precisely on the same footing; they had always hunted in couples, and acted in concert. Whenever a witness, as the old books expressed it, was handled by the one, he was handled by the other. It would be singular indeed if an attempt were made to reject Vimercati altogether, and to show that he was an agent to nobody and for nothing. Yet, if the other side did not go this length, it was clear that the counsel for the Queen would have a right to examine as to his acts. Another objection had been more than hinted at, when it was said, that conversations between Vimercati and the witness could not be given in evidence; but the truth was, that the witness was not required to depose as to the words spoken, but as to the fact done; the deed was every thing, and the words nothing. If they were prevented from pursuing this course, he humbly entreated the House—nay, the party most interested in the success of the bill, whose very all depended upon it—to answer this short question—how was it possible for the Queen to proceed further in her defence?

Mr. Solicitor General, on the other side observed, that after the experience he had had of his learned friends, he was not at all surprised at the variety of topics they had introduced. He would not go out of his way to follow them, but would discharge his duty by shortly and simply stating the grounds on which he rested his objections to the testimony offered. Still he must say, on behalf of Mr. Powell, that he was a professional agent in support of the bill; that in that character he had carried on a correspondence with colonel Browne; and that he was bound, as a professional man and as a gentleman, not to disclose voluntarily the nature of that correspondence. On this account, he had represented the situation in which he was placed to the House: personally, he had no backwardness in answering any of the questions put to him; but it was his duty to state the objections that operated upon his mind. Whenever questions on evidence arose, the other side pursued a most extraordinary course — nothing would satisfy them but charges of subornation of perjury; and the more serious the accusation, the more vague was the evidence they offered in its support. The rule in our courts of justice was this—that whenever a grave charge was made, the evidence to support it must be strictly legal. Yet now, all legal forms, all rules of evidence, were to be overthrown, to establish the supposed enormous criminality of some individual. According to his apprehension, no act even of the Milan commissioners themselves could be given in evidence in the course of the inquiry, except it related to a particular witness examined at the bar; for a different course would lead to endless collateral inquiries, and irrelevant charges. It was not necessary now to contend to that extent, the question being confined solely to the acts of the advocate Vimercati. It had been laid down, and most properly, that the acts of an agent, when acting within the scope of his authority, might be made use of against his principal; and, applying that rule, what was the situation of Vimercati? According to all the evidence, he was nothing more than a person employed by the Milan commissioners to receive and take down the evidence. Did the other side pretend to say, that what they were about to prove came within the scope of his authority. If so, another question arose—whether they were in a condition to go further, and attack any individuals but those examined at their lordships bar? A great deal had been said about bribes: whether offered by the Milan commissioners, Vimercati or any others, it might be legitimate evidence, if they applied it to the witnesses already examined; but if the counsel for the Queen were not prepared to prove that, they could be allowed to prove nothing. Without, therefore, going into the general question, which was much more important, he rested his objection to the line of examination commenced upon this—that what was imputed to Vimercati was not within the scope of the authority with which he was invested by the Milan commission, and that, if it were not the act of the agent, it could not affect or bind the principal.

The Counsel were directed to withdraw; and the House adjourned.

HOUSE OF LORDS.

Tuesday, October 17.

The order of the day being read for

the further consideration and second reading of the Bill, intituled, "An Act "to deprive her Majesty Caroline Amelia "Elizabeth, &c;" and for hearing Counsel for and against the same,

The *Lord Chancellor* proceeded to inform their lordships, that towards the close of the proceedings of yesterday, a question, which was put by the learned counsel appearing on behalf of the Queen against the bill, to a witness then under examination, had been objected to by the learned counsel who appeared in support of the bill. The question might be represented to their lordships—at least he thought it a convenient mode of conveying it to their lordships' minds to represent it, in these terms: "Whether a certain person of the name of Vimercati, in order to induce other persons to come forward as witnesses, or to furnish testimony against the party accused by the bill, had not offered a corrupt inducement for that purpose?" An objection was very properly taken by the learned counsel for the bill, which objection was answered by the counsel on the other side, and it became the business of their lordships to determine if that question could or could not be put. For his own part, he must say, that the case of Vimercati might differ much from those cases which had been before argued, and on which the House had ruled, that the acts of agency were not so proved, as that they ought in any manner to affect the case. In stating his opinion upon the immediate question to their lordships, he should be extremely sorry to assume that which had been offered by the learned counsel who raised the objection; namely, that Vimercati being only the counsel, or professional agent to the Milan commission, his acts could in no wise affect the proceedings of that commission. He should be extremely sorry to conclude upon so narrow a view of the case. Looking at the evidence, he conceived, that there was sufficient proof apparent that Vimercati was, in fact, an agent of the Milan commission; and an agent their lordships must consider him. Upon this understanding of the case, he wished to have the opinion of the learned judges, and he would therefore propose a question for their decision, one which he conceived to be absolutely necessary for his own, and their lordships' guidance, that they should know what would be the law and the course of proceeding upon a similar case in the courts below, taking the case to be one which had already proved Vimercati to be an agent of the Milan commission, and considering the fact, that he had not been called or examined, and assuming what need not be questioned, that he had offered temptations to witnesses to appear—supposing also, that no proof could be made out, that any of the witnesses who had been examined for the prosecution had been corrupted, in such a case could evidence be admitted to show that any attempt had been made to corrupt the witnesses who appeared for the defence? His question would be, "If in the trial of a civil action or a criminal indictment, evidence had been given on the cross-examination of the witnesses examined in chief for the plaintiff in the civil action, or in support of the charges of the indictment, from which it was to be inferred, that A. B. had been employed to collect witnesses for the plaintiff or the prosecution, and if the defendant in a civil action or under indictment, offered proof that A. B. had gone about to induce C. D. to give corrupt testimony in support of the civil action or criminal charges, no witness called as a witness in chief for the indictment, or the civil action, having, under cross-examination, given any proof of A. B.'s corrupt agency, would the practice of the courts below allow C. D., a witness called for the defence, to give proof that A. B. had offered corrupt motives to induce him to give false testimony in support of the civil suit or the criminal charges?"

Earl *Grey* said, that before their lordships came to a decision on this question, he wished to offer a few words. If the noble and learned lord wished to propose the question to the learned Judges merely for his own satisfaction, he should on that ground not object to it. But he must declare he was of opinion, that even if the Judges did decide that, according to the rules of evidence in the courts below, the examination proposed by the Queen's counsel could not be allowed, their lordships were not bound to act on that decision. On the contrary, he would contend that, in consequence of the knowledge of facts which had come to them from the bar, they were bound to inquire into the truth of the allegations. He was, however, not much disposed to oppose the proposition of the noble and learned lord, because, whatever might be the answer given by the learned Judges, he should propose to their lordships to proceed in

the course of inquiry which was now suspended. The present point of inquiry was neither more nor less than a continuation of the case of Restelli; into that case their lordships had consented to inquire; but the evidence in that case was improperly admitted, if the rule was to be, that, unless agency could be proved, they were not to receive evidence of corruption. If the rule, however, of receiving the evidence of yesterday applied to that of to-day, the examination proposed on the part of the defence ought to be allowed. Though it was found, from the evidence, that Restelli had been constantly employed in collecting witnesses, yet it was not proved that he had been authorized to make them offers. In like manner, with regard to Vimercati, it appeared that he assisted officially in taking down depositions; but *non constat*, that out of the room in which the depositions were taken he had been, on any occasion, authorized to do any act. If, therefore, the strict rule of evidence was to be adhered to, the cases were substantially the same. He must also contend, that the rules of courts of law, with respect to evidence in civil actions, were not at all applicable to this case. Their lordships were now sitting as judges; and the case was of the nature of a criminal prosecution. How, then, the noble and learned lord could propose to limit his question to the rules of evidence in civil actions, was what he could not understand. The present was, in every respect, a criminal proceeding; and what was done in the courts below, with respect to civil actions, could have no relation whatever to the case. If, however, a question were to be put, he should wish it to be framed on the supposition of a prosecution for a capital offence; for nothing else could have any analogy to the case. If any one, in answer, said, that this was not a trial for life, he would ask, whether the illustrious person who was the object of this bill was not exposed by it to losses more severe than the loss of life? The question, then, which he would propose to ask, if any were put, would be, whether, in a capital case, if evidence were tendered to a judge of an attempt to corrupt witnesses, whose evidence, if received, would be fatal to the person accused, that judge would not think it necessary to relieve the case from all suspicion, and to ascertain by what means that evidence had been procured on which he was to pronounce judgment of death? The question was immaterial whether agency was proved or not. The counsel for the defence proposed to prove, that an attempt had been made to corrupt justice, in order to obtain a decision from their lordships, the effect of which would be, to deprive her majesty of that rank, station, and dignity, and those privileges, which, to any individual in her situation, must be dearer than life. He thought, therefore, that their lordships, without reference to the Judges, ought to decide that the examination should proceed. Having already received similar evidence, were they now to turn round, and alter the rule they had made? What was now proposed was, not the introduction of a new rule, but of one which had been followed after all the evidence on one side of the case had been heard. What was the necessity of inquiring into the practice of the courts below? If, either on the prosecution or the defence, a case arose in which corruption was alleged, and an attempt to impose false evidence upon their lordships, they were bound to inquire into the facts, unless they were disposed to shut their eyes to every thing which might prove the proceedings into which they had been drawn, to be the result of a foul and wicked conspiracy to deprive the illustrious individual of all those possessions which were to her far more valuable than existence. For these reasons, he must again say, that he saw no ground for referring the question to the Judges; and was of opinion, that the testimony which had been offered ought to have been received yesterday. At any rate, he could not regard what passed in courts of law on civil actions, as having any reference to the evidence offered; for he considered this as a criminal proceeding of the highest kind. When, in the trial of such a case, evidence was offered, that an attempt had been made to corrupt justice, and to bring to their lordships' bar false testimony, whether that attempt was attributed to an agent or to any other person, he trusted their lordships would not turn their backs on that inquiry which was necessary to detect such iniquity. If that should be their conduct, they would not appear to the public to be doing that justice which was expected from them.

The Earl of *Liverpool* wished to offer a few words in consequence of what had fallen from the noble earl. In the first place, as to the objection to confining the

question to be proposed to the Judges to the practice of the courts in civil actions, he believed his noble and learned friend would have no objection to strike those words out, and to let the question go to the Judges without any limitation. With regard to the general argument of the noble lord, he thought the view taken by him was altogether founded in mistake. He did not know what the opinion of the learned Judges might be, and would therefore postpone the expression of his own sentiments on the question, till after it had been submitted to their decision, if the House should think proper to take such a course. But, he understood the argument of the noble earl to be founded on this question—Whether or not it was fit, in this stage of the proceedings, that their lordships should go into an inquiry on a charge of general corruption, which had no immediate application to the case now before them, which could have no relation to the business under consideration, and no effect on the ultimate issue. The noble earl had said, that he considered this to be a criminal prosecution, and for a capital offence. He had no objection to take the question on this ground, and consider the present to be a criminal prosecution, and for a capital offence (for the punishment that might be inflicted did not affect the law of the case), and still he would contend, that the noble earl was mistaken in his view of the business. But it was asked, if a subornation of witnesses to appear in this cause can be proved, if it can be shown that any witnesses have been corrupted, or attempted to be corrupted, ought not this to be inquired into? He would admit, that, if it should appear that any of the witnesses produced at their lordships' bar had been corrupted, or attempted to be corrupted, or if any witness could be found to have been engaged in corrupting —in such a case he conceived (giving his opinion as an unprofessional man) their lordships ought to receive the evidence. But the question was here, not whether evidence should be received of an attempt made to corrupt witnesses who had appeared at the bar; but whether evidence could be received of attempts made to corrupt persons who had not been brought forward as witnesses? He desired that no man should suppose that he meant to argue that it was not as bad to endeavour to corrupt those who had not been brought forward as witnesses, as it was to suborn those who had actually been before the House. In his opinion, to attempt corruption in the one instance was just as iniquitous as in the other; but, what he contended was, that, in the latter case, they had nothing to do with it at this time, and ought not to be called upon to go into an irrelevant inquiry, which he did not see could have any effect on the present proceedings.—He would now apply himself to another part of the question, stating what he had to say very shortly, and merely throwing it out for their lordships' consideration in the absence of the Judges, if they should go out on the question now proposed to be submitted to them. He would put it to their lordships, whether they ought to go into an inquiry respecting the conduct of the persons engaged at Milan, without giving some sort of notice to the advocate Vimercati and colonel Browne that those persons might at least have an opportunity of being here to defend themselves? He would go further, and ask if this were not done, supposing the learned Judges should give it as their opinion that the evidence which had been tendered could be received, would their lordships feel themselves justified in receiving it, without admitting, at the same time, evidence of every thing that went to affect the conduct of those who had formed the Milan commission? He considered the admission of all the evidence that might be offered on this subject, to be the necessary consequence of receiving that which was now tendered: and therefore he wished the House to consider well what would be the effect of their pursuing the line of conduct now recommended to their adoption. He had already stated, that he had not the least objection to the gentlemen who had formed the Milan commission being examined respecting all they had done, and he was content, that the advocate Vimercati should, if they pleased, appear at their lordships' bar. All he had to say against receiving the evidence in question was this—that it would lead the House into an inquiry that he could not regard as relevant to the matter now at issue. If the Judges should be of opinion that the evidence might be received, he considered that justice would require, that they should hear what the parties accused could offer in their defence.

Lord *Erskine* thought their lordships ought not, from a consideration of what might be the future consequences of their

decision, to deliberate whether or not they should do right now. If the evidence were proper to be admitted, they ought to decide for receiving it. Having considered the matter still further, and called to his recollection his practice at the bar in early life, he felt convinced with his noble friend, that the examination of the witness ought to be allowed, without any question being put to the Judges. He thought it strange, that, after the admission had been made, that the House were bound by no technical rules, but were to attain the truth and administer substantial justice, the admission of this testimony should be opposed; and in that anomalous proceeding all the disadvantages were still thrust upon the Queen, and none of the advantages accorded to her. Notwithstanding that admission, and the admission (reluctantly made) that nothing could make amends to the illustrious accused, for the absence of a material witness, it was not only wished to fasten them down to the rules of law, but to rules of law totally inapplicable to the present case. He would suppose a criminal indictment preferred against persons for suborning witnesses against the Queen. Were he counsel for the prosecution, he would first prove the existence of the conspiracy, and then endeavour to bring it home to the parties by witnesses who would prove the acts of the agent. In the case of the state trials of 1794, this was the mode in which his noble and learned friend proceeded, A conspiracy to dethrone the king was first attempted to be proved, and then to prove the agents. In the trial of Hardy, the defendant objected, that none of the acts proved were made to connect with him: and the learned judge who presided had said, that the charge was of two parts, and the prosecutor might first prove the existence of the conspiracy, and then bring it home to the parties as well as he could. In like manner, the learned counsel might bring proof of a conspiracy against her majesty. He might bring it home first to Vimercati, he to colonel Browne, and colonel Browne to the actual prosecutor. If there had been a conspiracy on foot, no matter by whom, it was the duty of their lordships to sift it to the bottom, to prove the acts of the agents, and thus trace it to its source. The attempt of Restelli to corrupt witnesses was almost unexampled in the history of jurisprudence. And, were their lordships, with the knowledge of this fact, to suffer the matter to rest here? If the counsel for her majesty proved various acts of subornation of witnesses, how were their lordships to know whether the witnesses already examined had not been procured by these means? He must think they had been suborned, because no person deviated from the truth without some sinister motive; and when their lordships found witnesses declaring on oath what was notoriously and wickedly false, ought they not to be particularly cautious in the evidence they admitted to weigh on their minds? If their lordships divested themselves of the right to probe and examine into the alleged conspiracy, they might undoubtedly do so; but no man who was not a fit inhabitant of Bedlam would say, that, if the evidence were gone into, they were not competent to judge of the probability or improbability of the charge; if they were not, they ought to retire from the situations which they now filled. It was the duty of the counsel for the defence to bring forward evidence to prove this conspiracy; and it was no less the duty of their lordships, as he conceived, to hear that evidence and decide upon it. If it was proved, that an agent of the Milan commission had offered to bribe a single person to give evidence against the Queen, that single proof of a conspiracy tainted the whole evidence; for, although there might be some witnesses who could not be proved to have been thus bribed, yet it threw a suspicion upon the whole. He would appeal to the noble earl opposite, whether, if he had known, before the commencement of this unfortunate business, what he knew now, he would have gone into the prosecution? He felt perfectly convinced that he would not. Their lordships were not to confine themselves to the rules of a court of justice, for no court of justice ever had to decide on such a cause. He entreated their lordships to permit the counsel to trace the conspiracy to its source; for of the existence of a conspiracy no one could doubt. Their lordships would thus best discharge their duty to the sound principles of justice, to their own character, and to that posterity by which their conduct would hereafter be judged.

The Earl of *Lauderdale* said, he could not but deprecate the line of argument pursued on the other side of the House, by which all the rules of evidence were

to be abandoned, and all regularity completely annihilated. He should like to know for what purpose rules of evidence were laid down and adopted in courts of law, unless to elicit truth, and facilitate that regularity which ought always to characterise the administration of justice; and, if that were so in ordinary and common cases, he should like also to know on what novel principle it was, that the highest court should not be governed by the same principles of regularity which governed the proceedings of the lowest? If a common or ordinary case were to be subject to rules and bounds to ensure the regularity of its proceedings, surely a bill of pains and penalties equally demanded the same caution and care, to ensure the eliciting of truth. He had minutely examined the whole of the evidence, and it appeared by that evidence, that the conversation supposed to have been held with Vimercati, as the agent of the Milan commission, was, in point of fact, held when that commission was *functus officio*, because, according to Mr. Powell's statement, its operation ceased in 1819, and this conversation was supposed to have taken place in 1820. As far as colonel Browne was concerned, Vimercati certainly assisted him. His lordship said, he was most anxious that the opinion of the Judges should be taken on the subject, and that no deviation should be allowed unnecessarily from those established rules of evidence which experience had proved to be best calculated for the discovery of truth.

The Earl of *Rosslyn* said, he felt great diffidence in rising to address their lordships on this question, after the able manner in which it had been discussed by his noble and learned friend near him (lord Erskine) and his noble friend below him (earl Grey). His noble friend who had just sat down was, however, of a different opinion. He was of opinion that their lordships ought to be bound by the rules of evidence in the courts below, because the experience of ages had shown that they were in general best calculated for the discovery of truth. He admitted the fact, and he admitted the ground on which his noble friend had placed his argument. He was of opinion, that the rules of the courts below were the best that could be invented for regulating proceedings between two parties, and those parties too, fairly opposed to each other. He could not but feel the necessity for not permitting any deviation from the rules of the courts in such cases, on account of any hardship which any of the parties might suffer; because, the benefit which one individual might gain by taking advantage of the rule of law, or the injury which another might sustain, was not to be put in competition with the public interest in the regular and uniform administration of justice. The rules, however, might differ, and did considerably differ, in civil and criminal cases. The great object in both was the ascertaining of truth; but in criminal cases, the principle of protecting the defendant was carried farther than in civil actions; for the judge was not only held to be impartial, but by a species of humane fiction of the law, was considered as counsel for the accused. In the present case, there was no party except on one side, and certainly none that could suffer by any deviation from the ordinary rules. What were their lordships now doing? They were not trying colonel Browne or M. Vimercati—they were not trying any ordinary case that fell within the known limits of established law; but they were considering how they could punish without law—they were deliberating on a measure, the penalties of which were to be applied to acts, for which the individual charged with them was not amenable to any law previously existing. For it had been allowed on all hands, even by those who brought forward the bill, that if the illustrious individual who was its object, were tried by any of the laws which were supposed to apply to her offence, it would be impossible to find her guilty. On this ground, which was the foundation of the bill, its patrons had called on its opposers to show why it should not pass into a law. The opposing party had then doubtless a right to show that the allegations on which the bill was founded were false—to show that the facts were false, the testimony corrupt, and the whole grounds of the bill unsound and fallacious. In the case of this being shown, the dignity and character of the illustrious party would be preserved; because, on showing that the charges were founded in falsehood, their lordships would not pass the bill: for the whole proceeding was a measure of expediency; and surely there was no man in that House who would say, that without any proof of guilt it would be expedient to inflict punishment. But who was the other

party in the bill? That party was said to be the state. It was said to be expedient for the interests of the state, that an individual committing certain acts should be degraded from her rank in the state; although by those acts she had violated no law by which degradation was declared to be the punishment attending them. Their lordships had adopted the part of the state in this case, by ordering the bill to be proceeded in, and by commanding the attorney-general to appear for the purpose of opening the case for the bill, and of bringing forth the proofs in support of that case. They were now deliberating on the question whether they would exercise their legislative functions in this way. But it also now became a question for their consideration, whether a conspiracy had not been entered into to deceive them by false evidence? He did not charge the conspiracy against the prosecutor; he did not charge it against the party to the bill; he did not charge it against the Milan commission; nor was he bound to prove the connexion of any of those parties with it. But what he would say was this—"Do not pass this bill until you ascertain whether, and how far you have been misled." It was sufficient to induce them to go into the proposed examination, that there appeared reason to suspect the existence of a conspiracy. It was not necessary that it should be got up by agents of this country; it might be the work of foreign powers. But it mattered not by whom it was hatched. This might eventually appear to be a conspiracy, in which both foreign as well as British agents were employed. But how was this conspiracy to be got at, unless the whole of the agents employed were known, as well as the parties for which they were to be considered as responsible? A notable argument had, indeed, been used—namely, that they ought to confine their inquiries as to the abettors of corruption, if any there were, to the witnesses who had been examined at their lordships bar. In reply to this argument he should say, that these were exactly not the persons to whom they ought to confine their inquiry respecting the imputed corruption; for the persons fed and nurtured at the pampered board of corruption were not likely in person to come forward, and run the risk of detection: on the contrary, they were most probably engaged in the underhand machinations of a system to promote, through the means of others, the main object of their activity. It was not likely that the corrupt agents themselves would run the risk of being stopped in the cause; nor indeed, if they did come forward in person, could it well be expected that they who had sworn falsely, and had been suborners of perjury elsewhere, would speak the truth for their own detection, when they appeared as witnesses in the cause. It was, he thought, obviously impossible to bring to light the acts of such men, except by the failure of some of their efforts to corrupt individuals which individuals might afterwards confront those who attempted to suborn them. The inquiry into these facts had, he thought, become imperative, not indeed for the parties in this cause, but for the honour and dignity of that House. Would their lordships not think it a direct attack and gross outrage upon their privileges, if it were discovered that any of the agents employed in a bill legislatively and judicially before them, should have dared to prop up that bill by the production of tainted evidence, or by an attempt to obtain it? The House was bound to dispose of the bill according to the evidence adduced by the promoters of it; but, was it nothing to ascertain in what manner that evidence had been collected? Was it nothing to show that the fountain from which it was drawn was corrupted, and that truth could not flow from such a source? Was it nothing to show this from those who had refused the proffered bribe, and who declared the agent that tendered it? Did any body, in point of fact, doubt the agency of Vimercati in this cause? Nobody could now doubt the agency of either colonel Browne or Mr. Powell; for the latter, by his refusal to give the letter of the former, clearly established the direct agency of both. If, with these palpable facts before their lordships, with these proceedings of agents so long engaged in collecting testimony, they should deem it right to reject, in the present stage of their proceedings, the only inquiry which could make their future progress safe, then indeed he should be obliged to confess, that he saw no safety for the administration of justice there—that he saw no hope of the salutary protection of the community, no safeguard against the recurrence of dark and dubious means to entrap testimony destined to sap the foundation of justice. Where was this

protection to be found, if parties were, among themselves, to be permitted, for two years, to originate this cause in a foreign country, to corrupt and suborn witnesses, to transmit written depositions, and have them sworn to, before the parties making them were brought before the proper legal authorities; and then to be considered as irresponsible, as men whose acts were altogether to be deemed alien from the inquiry? Were their lordships to be shut from the knowledge of such facts, at the moment when they were called upon to act upon the evidence so impugned? Were they to turn their eyes from the offer to prove the polluted source from which such evidence came? The moment they so decided, in vain would they shelter themselves under the expediency of acting by rules; they would at once appear to the public, not as honest and unbiassed judges, but as parties in the charge of corruption in which the agents were involved, and for a purpose injurious to the interests of that public, and disgracing the functions with which they were intrusted for the administration of justice.

Lord *Manners* considered the question now before the House to be one of great importance. It was this—whether, under the circumstances of the present case, they would be justified in making it an exception from those rules, which were prescribed for governing cases of the like character in the courts below? It was expedient, in his opinion, to consider the reason upon which these rules, as applied to the evidence of agents, were founded, before they resolved to depart from them. The law as affecting the employer and agent was clear. The employer, for every purpose, must necessarily be bound by the declarations and acts of his agent. This was a plain rule, arising out of the necessity of the case. Before, however, the acts of a supposed agent became binding upon an employer, it was absolutely essential that his relationship of agent should be clearly ascertained. To apply this rule to the present case:—commissioners had been employed to inquire into certain acts charged to have been committed by the individual accused at their lordships' bar, and it was clear, that whatever those commissioners might have done, or whatever they might have authorized others to do, must be received in evidence in the present inquiry. That was a proposition clearly understood. But the declarations and acts of persons not employed by those commissioners, it was equally clear, must be altogether rejected. If this were not the case, any unprincipled fellow might defeat the ends of justice, by assuming a character which did not belong to him, and, under that assumption, committing acts of the most flagitious nature. Any act, therefore, that any unauthorized party had done, could not be received for the purpose of discrediting the witnesses in this case. He confessed that of all others, he considered the principles which bound the courts below—principles which had been sanctioned by time, and found, by experience, to be the best for the attainment of truth—were the most desirable to be adopted by their lordships in the discharge of their important duty on the present occasion. Upon this ground, he should vote that the question proposed should be submitted to the learned Judges, persuaded, as he was, that the rules by which the courts of law were bound, were the best calculated for the safe and substantial administration of justice.

The Earl of *Donoughmore* was happy that the opinion of the learned Judges would be interposed on the present occasion; because, under the peculiar circumstances of this case, the bias of his mind rather induced him to open the door as wide as possible to the attainment of truth; a course which might, from the view which he now took of the arguments before the House, tend rather to obviate than to assist the general cause of justice. He could not help, on this occasion, animadverting upon the wide range of observation in which noble lords on his side of the House had indulged, upon a mere abstract question, as to whether certain evidence should or should not be received at their lordships' bar. He wanted to know what those observations had to do with this question, or upon what principle of justice it was, that they were called upon to listen to a long line of argument on the subject of a supposed conspiracy? Were they now trying a case of conspiracy? If grounds existed for charging the Milan commissioners, or his majesty's ministers, with conspiracy, surely the time for examining that charge had not yet arrived. They had heard a great deal of eloquence, sometimes a great deal of misrepresentation, both prose and verse, which he thought might have been spared; and they had heard a great deal of inflamma-

tory language which he thought ought to have been spared. Whether this were ludicrous, or whether it were serious; whether it were the spontaneous effusions of learned or unlearned persons, or whether it arose from side-wind hints within or without the bar, still he thought that such a course of proceeding was greatly to be condemned. The noble lord concluded by reiterating his satisfaction that the question at issue had been referred to the learned Judges.

Earl *Grosvenor* considered the present question of the greatest possible importance; and although he had not yet troubled their lordships on this subject, he was anxious shortly to state his reasons for thinking that this question ought not, at the present moment, to be submitted to the Judges. He wished to God that the whole question were brought to a decision! He considered the measure as objectionable and unconstitutional in every point of view, and therefore his mind was made up as to the vote he should ultimately give. With regard to the immediate point under the observation of the House, whatever might be the decision of the Judges, he thought that their lordships should not be bound by technical objections, and that they should unreservedly enter upon an examination of the conduct, not alone of Vimercati, but of every person who had been found acting in this mysterious case. It was said, that this was not the time to enter into an examination as to the character of this conspiracy; but he contended, that, of all others, this was the season when this subject should be fully investigated; for it was now that the conspiracy had begun to develope itself. This was its dawn, and the present was the only time for getting at the truth. He by no means wished to disguise the difficulty which arose from the circumstance that Vimercati was not in this country to be produced. But whose fault was that? It was not a difficulty which ought to be allowed to operate as a gross hardship on the accused. The noble earl opposite had too much manliness, he was sure, to deny the agency of Vimercati; more particularly since Restelli's case had thrown doubts upon the manner in which the witnesses had been collected. All they knew now respecting Restelli was, that strong suspicions attached to his share of the business. That he had offered money was directly alleged; and that he might have been sent out of the way to screen himself from the consequences of such detection was by no means impossible, though he did not mean to assert that such was the fact. If the case had been conducted by English witnesses, then there would be no difficulty in ascertaining the respective share of each; but here, when mixed up with the agency of foreigners, the discovery became more perplexed and difficult. He still thought a short bill, now that the other House of Parliament was about to sit, might be brought in, compelling the residence here of the witnesses until the case should be terminated; otherwise he saw no prospect of rendering them responsible for their evidence, particularly after what had occurred in Restelli's case.

Lord *Redesdale* observed, that it would be useless to address any arguments to the noble earl who had just sat down, that noble earl having declared, that he had made up his mind on the subject. The point on which their lordships were now called upon to decide was, whether a question should now be put to the witness, although it was of a nature not permitted by those rules which the wisdom and experience of ages had determined were essential to the sound and regular administration of justice? Why, in this particular case, those rules ought to be departed from, he was utterly at a loss to conceive. If those rules were not effective to the production of the truth, they ought to be abandoned every where; if they were so effective, they were universal in their character, and ought to be invariably maintained. For his part, he knew not how the honour and life of any individual could be safe, if those rules were departed from. Although his own opinion was that which he had already expressed, he was very desirous to have the assistance of the learned Judges, whose long legal habits and constant experience so eminently qualified them for aiding their lordships in the consideration of the question; that should he find they differed from him on any point of this description, he should be very careful indeed before he determined to act on his own opinion.

The *Lord Chancellor* said, he would shortly trouble their lordships by stating the grounds upon which he thought this question ought to be submitted to the learned Judges. The House had been now between thirty and forty days en-

gaged in the present proceeding, and up to this time, by common consent, they had agreed to abide by the rules of evidence; as administered in the courts below. If those rules had not their foundation in the principles of truth and justice, then the sooner they were altered, the better. It became, then, important that they should satisfy themselves whether they had better maintain their consistency by still adhering to the rules in the courts below, or whether they could venture to strike out into a new path, and make rules for themselves of a different character. If, upon full consideration, they thought the safer course would be to adhere to those rules which had been for ages deemed the best calculated to aid the administration of justice, then he thought it, for their satisfaction, material that they should ascertain, from the proper authorities, what was the rule of practice as applicable to the present point. If the learned Judges were to determine that the proposed question might be asked, he put it to those noble lords who were now of that opinion, whether they would not feel much satisfactory confirmation by such a statement? If, on the other hand, the opinion of the Judges should be, that the question ought not to be put, their lordships would then have to consider all that had passed, and all that must yet pass on the subject, and inquire why they were to be called upon to depart from the principles on which they had hitherto acted, and let in an unprecedented laxity to their proceedings? A great deal had been said about bills of Pains and Penalties, and Impeachments, and other things, which were wholly unconnected with the immediate question before their lordships. He would make only this remark—that if their lordships continued strictly to observe the rules of evidence in the present proceeding by a bill of pains and penalties, it would be hereafter extremely difficult for any man to show that such a proceeding was unconstitutional, or to deny that it was infinitely more favourable to the person accused, than a proceeding by Impeachment. As to the witnesses, he would not say a word with respect to them, but that every one was entitled, until the close of the proceedings, to be considered as a person against whom their lordships were not justified in advancing a charge of corruption. He did not mean to deny that there were witnesses whose testimony ought to be received with scrupulousness and jealousy; but if the testimony of any of those persons who had been so loudly attacked, should eventually prove true, he would ask whether such a witness, ultimately set right, would not have great reason to complain of those who had used such language as he (the lord chancellor) had heard on the subject? The ground which he took was of mighty importance in all cases, and especially in the case of a bill of pains and penalties, which was to be sent down to the other House of Parliament, to abide by the general rules of evidence; admitting, at the same time, the possible existence of a case in which a departure from those rules would be justifiable. Reverting to the decision of yesterday, the noble and learned lord observed, that he had then stated, that if the learned Judges gave an opinion differing from his own, on their opinion he was prepared to act. On the present occasion he would follow exactly the same course. But, taking into his consideration all the circumstances of the case, he should not deal honestly by their lordships, if he did not allow that, on the present occasion, there was doubt enough in his mind to make him at least wish for the assistance of the learned Judges upon it. With respect to the words of the question, he admitted that the expression "civil action" might be struck out as unnecessary, and the question be confined to a capital offence.

The Marquis of *Lansdown* said, he wished to offer a few words on the subject. It was not his intention to protract his remarks to any length, not because he did not consider the proposition under their lordships consideration of great importance, but because the merits of the case had been more forcibly stated than he could hope to state them, by other noble lords, and more especially in the comprehensive, able and constitutional speech of his noble and learned friend on the bench behind him. Far as he should be from considering himself bound by the opinion of the Judges on the question which it was proposed to submit to those learned persons, he did not rise to oppose that particular proposition, since it appeared that to obtain that opinion would be satisfactory to the noble and learned lord on the woolsack, as well as to other noble lords. But in order that the answer to the question should be satisfactory to any body, it appeared to him to

be necessary that the question should have a precise reference to the case as stated by the counsel at the bar. He was not sure that the way in which the question was proposed to be put, would not have the same effect as would be produced by expressing it in another manner; but certainly he understood, that the object of the counsel at the bar was, to prove, not that an attempt had been made to bribe a witness actually to give evidence against her majesty, but that an attempt had been made to abstract from that witness certain papers in his possession, which were necessary to her majesty's defence. It might be that the terms of the proposed question were applicable to both cases, but to him it would certainly be more satisfactory, if the question to be put were drawn up in such terms, as would point to the alleged attempt to injure her majesty by the abstraction of papers necessary to her defence.—Having thrown out this observation on the wording of the question, he would say a few words as to what he considered ought to be the course to be pursued by their lordships, after the opinion of the learned Judges should have been communicated. He perfectly agreed with the noble and learned lord under the gallery, that it was material that their lordships should take into their view the extent to which undue practices might have been resorted to by the agents for her majesty; and that they should not launch into a kind of inquiry in which those agents might be enabled to deceive them by the creation of a fictitious agency on the other side. It was on that ground alone that he had felt any hesitation on the proposition which had been made by his noble friend near him; because, although it was not probable that such a person as Riganti should be employed for such a purpose by the agents for her majesty, there was not enough to satisfy their lordships that such a thing was altogether impossible. But, with respect to Vimercati, could any one of their lordships, looking at the evidence which had been adduced at this bar, believe it possible that by any delusion however skilfully contrived, that person, evidently acting with the Milan commission, and in constant correspondence with the agents for the bill in this country, could, throughout the whole of that time, be in fact a corrupt agent of the Queen's attempting to deceive their lordships in her favour? He affirmed that the thing was utterly impossible; and therefore that no such inconvenience as that apprehended by the noble and learned lord could result from an inquiry into the conduct of Vimercati.—It had been urged by the noble and learned lord, and by the noble earl opposite, that their lordships had, in the course of the present inquiry, adhered invariably to the rules of evidence by which the courts below were governed, and therefore that to depart from those rules in this instance would be attended with material injustice and inconvenience. He had heard this assertion with astonishment, for he perfectly recollected, that their lordships had not invariably adhered and considered themselves bound by those rules. He remembered that in a case which made against her majesty, on an occasion precisely analogous to the present, the opinion of the Judges having been taken with respect to a question which it was proposed to put, and that opinion being adverse to the putting of the question, the question was nevertheless deliberately put and that without a single word in opposition to it from the noble and learned lords who now contended for a strict adherence to the ordinary laws of evidence. In support of this assertion he referred their lordships to the 455th page of the printed Minutes of Evidence. They would there find, that the attorney-general wishing to examine the witness, Sacchi, as to any conversation that Marietti had had with him, put the following question:—"Did Marietti make any observation upon the subject of your being a witness?"* To this question the attorney-general of the Queen objected. The consequence was, that it was referred to the opinion of the learned Judges; and in one of those answers which, in the course of the present proceeding had been delivered with so much clearness and ability, and in a manner calculated to throw so much light on the subjects on which they bore, the learned lord chief justice then sitting at their lordships table said, he thought the counsel had a right, upon re-examination, to ask all questions which might be proper to draw forth an explanation of the sense and meaning of the expressions used by the witness on cross-examination, if they were in themselves doubtful, and also of the motive by which the witness had been induced to use those expressions; "but," he added, "I think he has no right to go

* See Vol. 2, p. 1294.

further, and to introduce matter new in itself, and not suited to the purpose of explaining either the expressions or the motive of the witness. And as many things may pass in one and the same conversation relating to the subject of the conversation (as in the case put by your lordships, the declaration of a witness that he was to be a witness in a cause or prosecution) which do not relate to his motive, or to the meaning of his expressions, I think the counsel is not entitled to re-examine to the conversation, to the extent to which such conversation may relate to his being one of the witnesses, which is the point proposed in your lordships question to the Judges."*

Lord *Redesdale* observed, that if the noble marquis would refer to the first part of the learned lord chief justice's remarks, he would find the matter fully explained.

The Marquis of *Lansdown* said, he would read to their lordships the early part of the lord chief justice's observations. They were as follow:—"I agree with the other Judges in considering the two questions proposed to us by your lordships to be, with reference to the point on which our opinion has been asked, substantially one; and that question, as proposed by the House, contains these words —'The witness being re-examined, had 'stated what induced him to mention to 'C. D. what he had so told him;' by which I understand that the witness had fully explained his whole motive and inducement to inform C. D, that he was to be one of the witnesses; and so understanding the matter, and there being no ambiguity in the words, 'I am to be one 'of the witnesses,' I think there is no distinction to be made between the previous and subsequent parts of the conversation; and I think myself bound to answer your lordships question in the negative."—What he wished to point out to their lordships attention was this; that notwithstanding the opinion which had had been thus given by the learned Judges, they would find, that the following question had actually been afterwards put to the witness Sacchi: "Did any one of the Marietti's whom you are acquainted with in London, make any proposition to you touching the evidence you were to give in this cause?" What he contended for was, that the answer to this question brought out precisely that which in the opinion of the learned Judges could not be permitted to be brought out, in conformity to the rules of the courts below, namely, the conversation between Marietti and Sacchi. Their lordships, on the mere suspicion that Marietti might be an agent of the Queen's, meddling with a witness, although there was no proof whatever of the fact, were induced, in order to elicit the truth, to allow of a question being put, for the purpose of ascertaining the conversation which had taken place; and they had thereby departed from the principle which the narrow rules of the courts below prescribed. He maintained that on that, and on other grounds which he would not detain their lordships by specifying, and more especially on the ground of the allegation of the counsel at the bar, that a conspiracy existed against their client, it was the duty of their lordships to admit, at the time when it was most important it should be admitted, an inquiry into the nature and extent of the alleged conspiracy. He was utterly at a loss to conceive how any man could believe that the alleged conspiracy ought to be inquired into, and yet contend that it ought not to be inquired into at that time! If not inquired into at that moment, it could not be inquired into hereafter; or if it were, the inquiry could not be followed by the beneficial result which might flow from it if it were put at once. Good God! the allegation of the counsel at the bar was, that a conspiracy existed to prove certain acts against her majesty. On the evidence which it was alleged was the fruit of that conspiracy, their lordships were proceeding to depose the Queen, and having removed her from the throne, they were then to set themselves about inquiring whether the evidence on which they had done so was actually the produce of conspiracy or not [Hear, hear!]. It was gravely proposed to their lordships to pass a bill deposing her majesty, and after having sent that bill to the other House to require their concurrence, and having also required the assent of his majesty to the measure, then to commence a new inquiry, to ascertain whether or not the alleged facts on which they had so acted were the offspring of conspiracy. Why, perhaps by the time that this new inquiry was terminated his majesty might have married another wife [Hear, hear!]. When that was done, it would be a great reparation to his majesty (for to his ma-

* See Vol. 2, p. 1308.

jesty such a proceeding would be highly injurious), to her majesty, and to the country at large, if it should be found that all the alleged facts on which the bill of degradation had been agreed to, had their source and origin in a scandalous and infamous conspiracy; and that their lordships must set themselves to pass another bill of divorce, by which the new queen should be deposed, and the former queen reinstated. [Hear, hear!]. The real question for their lordships was, in his opinion, what was the best way of bringing out the facts of the case, on whatever principle that might be done. Quite aware of the danger to which the noble and learned lord under the gallery, had adverted, he was unequivocally of opinion that at least as far as related to the members of the Milan commission, every one of whom might be justly considered as forming a part of the agency for the measure, their lordships were bound to hear and examine, and conclude respecting the conduct which had been observed in the prosecution of the proceeding. On these grounds he should feel it his duty to vote for enlarging the rules of ordinary courts to such an extent as might render them applicable to the case before their lordships—a case for which there was no precedent, and which he trusted would never afford a precedent for future times.

Lord *King* apologised to the noble and learned lord on the woolsack for making the observation, but, he conceived that the words in which the question was framed, would still not exactly meet the case.

The *Lord Chancellor* replied, that no apology was due from any noble lord for such an observation. On the contrary, it was conferring a great obligation on him. He was anxious to frame the question so, as to render the answer as satisfactory to their lordships, as, under all the circumstances of the case, could be expected.

Lord *King* observed, that it had been contended there was no proof of Vimercati's agency. In contravention of this assertion, the noble lord read an extract from the Minutes of Evidence, by which it appeared that Vimercati had agreed to give ten livres a day to a witness in support of the bill. He should vote against putting the question to the Judges, let it assume whatever shape it might; but still he thought, that the part of the evidence which related to Vimercati's agency, should be referred to in the question.

After some conversation, it was at length agreed, that the following Questions should be proposed to the Judges:

1. "If in the trial of an indictment for a capital offence, or any crime, evidence had been given upon the cross-examination of witnesses examined in chief in support thereof, from which it appeared A. B., not examined as a witness, had been employed by the party preferring the indictment as an agent to procure and examine evidence and witnesses in support of the indictment, and the party indicted should propose, in the course of the defence, to examine C. D. as a witness to prove that A. B. had offered a bribe to E. F. in order to induce him to give testimony touching the matter in the indictment, E. F. not being a witness examined in support of the indictment, or examined before it was so proposed to examine C. D., would the courts below, according to their usage and practice, allow C. D. to be examined for the purpose aforesaid, or could such witness, according to law, be so examined, if the counsel, employed in support of the prosecution, objected to such examination?"

2. "If in the trial of an indictment for a capital offence, or other crime, evidence had been given upon the cross-examination of witnesses examined in chief in support thereof, from which it appeared that A. B., not examined as a witness, had been employed by the party preferring the indictment as an agent to procure and to examine evidence and witnesses in support of the indictment, and the party indicted should propose in the course of the defence to examine G. H. as a witness to prove, that A. B had offered him a bribe to induce him to bring to him papers belonging to the party indicted, G. H. not having been examined as a witness in support of the indictment, would the courts below, according to their usage and practice, allow G. H. to be examined for the purpose aforesaid, or could such witness, according to law, be so examined, if the counsel, employed in support of the prosecution, objected to such examination?"

The learned Judges desired leave to withdraw for a time; which was granted accordingly. Having been absent for an hour, the learned judges returned, and prayed for leave for further time to consider the said Questions till to-morrow morning; leave was granted accordingly, and the lord chancellor moved an adjournment, when,

The Earl of *Carnarvon* rose. He said, he did not conceive that their lordships could be more unprofitably employed than in sitting in that place discussing technical questions; because it appeared to him, that the point of law which had been so much debated had no connexion whatever with the point of duty, on which they would ultimately be called to decide for themselves. Whether this alleged conspiracy was proved or was not proved, the real question for their lordships' decision must be, whether they would yield to the demand of ministers, first to give them the human sacrifice for which they thirsted, and, when they had immolated the victim, to proceed to inquire by what foul crimes, by what wicked artifices, that victim had been dragged to the altar? This was the most extraordinary proposition that a minister of the Crown had ever assumed, the right of submitting to their lordships; but still it was the true question now before them. Their lordships might amuse themselves by putting questions to the learned Judges, but it was impossible for them to get rid of the question which he had stated; and therefore, he thought they had better at once meet that question boldly and manfully. But if they thought proper to wait for a decision on this point of law, which, he repeated was wholly irrelevant to the point of duty, it would seem as if they were afraid of the great question. He would not apologise for this short appeal, which, to some, might appear to be a waste of time, because he was convinced that they could not waste their time worse than by pursuing the line of proceeding which they had adopted.

Lord *Erskine* rose for the purpose of proposing, that another question should be referred to the learned Judges, with the view of ascertaining, whether evidence like that on which their lordships had been debating, and on the propriety of receiving which, no decision had yet taken place, might not, under particular circumstances, be legalized, and rendered admissible. Although the question put to the learned Judges might be by them decided in the affirmative, he would assume that a negative decision had taken place, and under that supposition, he would put the following question:

3. "Supposing that, according to the rules of law, evidence of a conspiracy to suborn witnesses in support of any prosecution ought not to be admitted, except such as directly applies to a prosecutor or an agent employed by him, general evidence of such a conspiracy may not, nevertheless, in the first instance, be received, as a preliminary step to affecting the prosecutor himself, or any agent employed by him; and whether the same rule would not apply as to receiving evidence from a defendant indicted, seeking to establish the existence of a conspiracy to suborn witnesses against him?"

The *Lord Chancellor* said, that though he did not see how this question bore on the proposition in dispute, yet the same principle which led him yesterday to state, that if any noble lord wished to have the opinion of the Judges, he should feel obliged to him for demanding it, and that he would look with deference to the opinion of those learned persons, whatever his own might chance to be, now led him to think that the question of his noble and learned friend ought to be put.

The Question was referred to the Judges, and the House adjourned.

HOUSE OF COMMONS.

Tuesday, October 17.

The House met pursuant to adjournment.

COMMERCIAL RESTRICTIONS—PETITION FROM LIVERPOOL.] General *Gascoyne*, in presenting a petition from the inhabitants of Liverpool, begged leave to call the attention of the House for a few minutes to the statements which it contained. He was aware that one topic occupied almost exclusively the attention of parliament and the public; still, however, the state of the country required that the House should take the subject of this petition into early consideration. The increase of pauperism in the town of Liverpool, which the petitioners ascribed chiefly to the distressed state of their trade, was truly alarming. So great was the increase, that not more than 20,000 of the inhabitants of Liverpool were rated. The population of that town was somewhat above 100,000, say 110,000; out of that number he was instructed by the mayor, who had called the meeting at which the resolutions upon which this petition was founded were passed, to inform the House, that 20,000 only were rated, and of these 7,000 were incapable of paying the annual rates. The petitioners were aware that the House had taken the

subject of the Poor laws into its consideration, and they were perfectly aware also, that their burdens were in no degree diminished by the result of their deliberations. They were of opinion, that the commercial distress of Liverpool arose from the prohibitions and restrictions upon the importation of other countries, and above all, from the prohibition upon the importation of corn. They concluded by praying the House to give its attention as soon as possible to this subject. The petition was signed by 20,000 persons; and, but for some unforeseen circumstances, it would have been presented at an earlier period.

Ordered to be printed.

Mr. Hatsell.]—The *Speaker* said, he had to inform the House that John Hatsell, esq. late clerk of that House, died on Sunday morning and that his majesty would speedily appoint a clerk.

Lord *Castlereagh* said, that it was a duty which the House owed to the memory of the individual, whose decease had just been communicated from the chair, to record upon their Journals the high sense which they entertained of his meritorious services.

Mr. *Tierney* entirely concurred with the noble lord, that the House was bound to mark its respect to an individual who had so long and so faithfully discharged the duties of the situation which he filled in that House.

The *Speaker* said, he would venture to suggest the propriety of a motion, which it was competent for any hon. gentleman to make if he should think fit. It was in the power of any member to move, that the vote of the year 1797, passed in acknowledgment of Mr. Hatsell's services, should be now read, and the repetition of that vote would then form a part of the proceedings of this day.

Lord Castlereagh moved accordingly, and the following entry in the Journal of the 11th of July 1797 was read:

"Resolved, *nem. con.* That Mr. Speaker be requested to acquaint Mr. Hatsell, that the House entertains a just and high sense of the distinguished and exemplary manner in which he has uniformly discharged the duties of his situation during his long attendance in the service of the House."

The Queen—Bill of Pains and Penalties.] Lord Castlereagh moved, "That a Committee be appointed to inspect the Journals of the House of Lords, with relation to the present state of any proceedings, had respecting the bill of Pains and Penalties against her Majesty."

Mr. *Tierney* said, that from some circumstances which had come to his knowledge, it was of great importance that the proceedings of this day, in the House of Lords, should be included in the motion.

Lord *Castlereagh* thought it was sufficient, to move generally for a committee to inquire into, and report upon the present state of the proceedings.

Mr. *Tierney* said, that any question not immediately connected with the innocence of her majesty, but connected with the manner in which the proceedings had originated, was a fit subject for the consideration of that House. He should move that it be an instruction to the committee to include the proceedings, of their lordships on this day.

The motion, so amended, was agreed to.

Lord *John Russell* rose, to present a petition from the inhabitants of Plymouth against the bill of Pains and Penalties against her majesty. It was signed by 2,000 inhabitants, the largest number of persons who had come forward upon a public question since the petitions against the property tax. The petitioners prayed that if the bill should ever come down to that House, the House would immediately throw it out. They were of opinion, that this proceeding, whether considered in a judicial or political point of view, was calculated to bring the administration of justice into contempt, and to endanger the security of the country. As this petition had been entrusted to him, he felt it his duty to present it. He had no hesitation in declaring that he entirely concurred in the sentiments of the petitioners; and that if ever the bill should come down from the other House, as he sincerely hoped it would not, he should be ready in his place to oppose it in every possible way. Without entering into the merits of the evidence which had been delivered before the House of Lords, he might be permitted to say, that the result of that evidence was not such as to make the people of England believe the Queen guilty. If the pretence for this bill were a tender regard for the morals of the country, he conceived that the whole ground of it was taken away; if it had been entertained as a public measure, in order to prevent the effects of a bad example, it

was quite clear that if the people believed the Queen to be virtuous, the public morals could not be affected. Besides, let the House look at the mischievous consequences which the mere agitation of such a measure had produced. In addition to the evidence taken at the bar of the House of Lords, there had been propagated by the public press a thousand calumnies which could not be foreseen. Through that medium some members of the highest classes of society had been grossly calumniated, for no other reason than the giving evidence in her favour. He hoped, on the other hand, that the people would not lose any opportunity of expressing, in that House, their opinion against the unwarrantable and unprecedented conduct at present pursued and persevered in against her majesty.

Mr. *Lockhart* hoped that the House would pardon him for a short time, if he ventured to deliver his sentiments on the subject of this petition. That opinion was in entire concurrence with the sentiments expressed in the petition itself. He could not but regard its prayer, as he looked upon the mode in which this bill of pains and penalties had been instituted, and the record of which was now before them on their Journals, as not only a most unconstitutional violation of the parliamentary laws of this kingdom, but as endangering the safety of the lower and middling ranks, by first of all striking, as was the practice in former ages, at the lives of those who were in the highest. When he called such a mode of instituting a proceeding, and such a proceeding itself, a violation of the laws, he meant to say a violation of the statute of Edward 3rd, which was the statute of treasons, and a violation of the express declaration of our Magna Charta itself, which had ordained in these words:—"Nemo capiatur aut imprisonetur, aut aliquo modo destruatur; nisi per legale judicium parium suorum, vel per legem terræ." Now, this very bill of pains and penalties—this unjustifiable species of encroachment—was that "aliquis modus destruendi," which our ancestors had so well pointed out and with so much providence endeavoured to avert—a method of procedure which was now in a civilized age revived—which was at this day brought forward, against the authority of all precedents, and the force of all laws. He meant to say, and he said it unhesitatingly, that by this measure, the statute of Edward 3rd was most essentially violated; for, as the House had now a formal knowledge of the bill, he thought that was made to appear, and was charged as a misdemeanor, which, on the showing of the framers of the bill, was high treason. He ventured to affirm, that under the pretext of the commission of a misdemeanor only, the bill itself, however carefully it had been drawn, did in fact charge that which was high treason; or at least pointed out no particular crime in favour of which such a distinction could be taken, as to render it less than high treason. He had understood, that the general reason assigned for the opinion that the charges alleged against the Queen did not amount to high treason was this—that a queen consort was incapable of committing high treason with a foreigner in a foreign country. Now, what would the House think of this proposition, when it learned, that though the bill alleged the acts to have been committed with a foreigner, it did not allege them to have taken place in a foreign country? He was surprised that those learned gentlemen who had drawn this bill, and from whose habits more legal accuracy might have been expected—had not more carefully performed their task.—The hon. gentleman then proceeded to read the preamble and various clauses of the bill of Pains and Penalties, for the purpose of showing that there was that omission of which he had spoken; and further, that though the intercourse was charged to have been continued in various foreign places, no place was laid where it was charged to have been commenced. He contended, that the utmost precision and certainty and accuracy were required in the preambles, provisions, and enactments of all bills of this extra-judicial nature; and that whatever might be the difference of opinion entertained among men as to the character or expediency of such bills, every one would readily agree, that it was not competent for parliament to assume that sort of jurisdiction which they had done in the present case, namely, to soften down a particular offence into one of another character, and then to proceed against it by a bill of pains and penalties, under a pretence of favour and kindness to the party against whom it might be instituted. —It was urged, that if they proceeded by impeachment in this instance, there was this danger—that they might decide that the crime was high treason; and then the

accusation must necessarily fall to the ground. Now, he maintained, that the very circumstance of this being a doubtful case as to whether it was one of high treason or not, took it entirely out of their cognizance, the law itself upon this point too, was in extreme doubt. It was doubtful notwithstanding all the authorities which might be cited, whether the queen-consort, or the companion of the eldest son of the king committing adultery was high treason or not, whether with a foreigner or otherwise. And first there was lord Coke's authority, he said, "If the queen-consort consents to him that commits the crime, she is equally guilty with him." And this he illustrated by authorities; but those authorities he (Mr. Lockhart) had looked into; one was the case of Anne Boleyn, as reported by a judge of the name of Spelman; and the other that of Catherine Howard, who was attainted. With respect to the first case, supposed to be reported by Spelman, who, by the way, was the judge who tried sir Thomas More, a circumstance not much in his favour, he had searched almost every library for it, and he believed that no such report existed. Burnet, indeed, mentioned his having seen the Common-place book of Spelman, containing the report of Anne Boleyn's case, with some of the leaves torn out. He believed, however, that it could not be Anne Boleyn's case, for he could prove to the House that she was not tried for adultery. First of all, the proceedings were suppressed and burnt, and the sentence only remained. But it did appear, that before Anne Boleyn was executed, a divorce was obtained by Henry 8th, and sentence pronounced against her, declaring the marriage void *ab initio*, on account of a pre-contract. If this were so, it was utterly impossible that she could be guilty of high treason, because she was not the wife of the king. She never could have been tried for adultery; and as the statute was silent upon the subject, the case cited by lord Coke was no authority to prove that a queen-consort could be tried for high treason. This conclusion was confirmed also by the authority of parliament; for it appeared that the crime with which she was charged was not high treason, but conferring with divers persons to the danger of the king's person. The other case cited by lord Coke was that of queen Catherine, and he had been followed by Hawkins, Hale, Mr. Justice Blackstone, and all the other text writers, who concurred in declaring, that a queen-consort consenting to the crime of adultery was equally guilty with her accomplice. It was not true, however, that queen Catherine was attainted for the crime of adultery; and he could prove that it was not true by the best evidence in the world. He had been favoured by the president of Magdalen College, Oxford, with a book written by Mr. Thomas, clerk of the privy council to Henry 8th, and his son Edward 6th. It was there stated, that Mr. Thomas being in Italy, and making apologies to divers enemies of the king, who was of course much detested in Catholic countries, among other things he had occasion to answer the charges against him for cruelty to his wives. When he came to queen Catherine, what did he, who was an eye-witness of the proceeding, state the charge against her to be? He told them, that Catherine was attainted not for adultery, but for her dissolute life previous to her marriage. Was it possible for any gentleman to believe, after the authority of the manuscript to which he had alluded, and which was now in the Cotton library, that queen Catherine was attainted for adultery, when the great apologist of Henry 8th, stated distinctly what her real crime was? This very defence, too, was followed up by an act of parliament declaring it to be high treason, if any woman who had been deflowered should marry the king, or if any queen-consort should, by letter or token, solicit the commission of adultery. Lord Coke, therefore, was no authority to prove that a queen-consort was within the provisions of the statute, and there were most serious doubts whether a queen-consort could commit high treason. The very circumstance of the other House calling upon the Judges, and asking whether the offence amounted to high treason, was sufficient to show that great doubts existed upon the subject. This was a point to which he was extremely anxious to draw the attention of the House. If it was doubtful to every reasonable mind, whether the offence amounted to high treason or not, the legal mode of resolving that doubt was, not to resort to a bill of pains and penalties, professing, as a sort of salvo, to change the nature of the crime by diminishing the punishment. This course was quite contrary to the spirit of the law; for if an officer of justice were to change one punishment for another—if, for instance, he

were to substitute decapitation for burning, a punishment now happily abolished, he would, by the law of the land, be guilty of murder. Where any doubt existed in cases of high treason, the law did not even trust the Judges with the explanation of that doubt. In all other cases the exposition of the law was confided to the Judges, but in cases of high treason the only legal and constitutional course was to refer all doubts and difficulties to the king in parliament. With respect to the express words used in the statute of Edward, "*se l'on violast*," he contended that those words were never meant to imply carnal cognition. In the Weavers' case, as reported by sir Matthew Hale, a doubt arose whether going about to destroy looms in general amounted to high treason. The question was referred to the Judges, but they delivered no opinion upon it. They declared, that it was doubtful whether the offence came within the statute, and they advised the facts to be specially found and submitted to the judgment of the king in parliament. This was the course recommended to the attorney-general, and the attorney-general declined proceeding any further.—He contended that her majesty ought to have been proceeded against by impeachment, and not by a bill of pains and penalties. If impeachment had been resorted to, the facts might have been separately found, and any doubts arising out of those facts as to the nature and amount of the offence, might have been referred to parliament. The bill of pains and penalties was a flagrant violation of Magna Charta, a proceeding fatal to the liberty and security of the country—a proceeding vexatiously protracted, when no doubt could remain of her majesty's innocence, like a wounded snake, "dragging its slow length along," unfit to live, and yet unwilling to die. He could not say that the husband alone, or the king's ministers alone, were guilty of vast laches in permitting the departure of the Queen from this realm, because he feared that many persons in that House, and himself, unfortunately, among them, had been their accomplices. He well remembered that the late Mr. Whitbread, who was extremely averse to her majesty's quitting this country, put a question to the noble lord opposite, whether it was meant that the Queen should go abroad or not? The answer given to that question was, that it was not meant to imprison her royal highness. If any crime had been committed, and he was happy to think that no court of justice would say that crime had been committed, but even if there had, it would have been more for the dignity of the Crown, more for the security of the government, more for the public morals of the country, and much more expedient in every sense of the word, if it had been arranged in any other way than that which was so unfortunately, and fatally, and to no purpose adopted. He entertained the strongest doubt with regard to the bill itself, whether it was a proceeding to which parliament could consent, under any circumstances, without a departure from its duty: whether the only course in which they could have proceeded constitutionally, was not that of impeachment. But, however the House might feel as to that opinion, he hoped at all events that they would take some decisive step to get rid of the proceeding at once, to get out of it in some way, or in any way, no matter how, as a proceeding which every consideration of justice and expediency required that they should resist.

Ordered to be printed.

MOTION RESPECTING THE LIBERATION OF FRANKLIN CHARGED WITH WRITING AND ISSUING SEDITIOUS PLACARDS, &c.] Mr. *Hume* said, he rose to call the attention of the House to a question of considerable importance, a question involving consequences more extensive than those who had not traced the progress of the mischief, as he had done, could easily believe, and calculated to bring before their view a series of proceedings, the manifest object and tendency of which was, to disturb the peace of the country. The motion with which he should conclude was, that sir Robert Baker, the chief magistrate of Bow-street office, should be called to the bar of that House to answer for his conduct, in permitting the escape of an individual charged with circulating a seditious hand-bill. He would prove, that the practice had been carried to a great extent, and that the mischievous consequences had spread further and been felt more severely, both in England and Scotland, than would on the first statement appear credible. The conspiracy, for a conspiracy he would call it, he would prove it to be such hereafter in the committee, as he had no doubt that the House would see the necessity of appointing one to investigate

such a case.—The conspiracy was of the nature he had already described, but much more mischievous than at present they could have any conception of. It begun, as far as his present information went, with the year 1818; though in a short time he expected to trace it much higher; but even now he could state, that from 1818, down to the present moment, a regular manufactory of treasonable placards had been conducted by a man who went at different times by the names of Fletcher, Forbes, and Franklin. He had followed him to the different houses where he went by those names, until at length he was arrested in the name of William Franklin. When he considered the important consequences that had followed from the publication of those treasonable productions—when he recollected the stress which the noble lord (Castlereagh) had laid on them while bringing forward his bills to abridge the liberties of the country—when he recollected that up to the last meeting of the House but one, the same noble lord had complained of such publications as proceeding from those who had advocated the cause of the Queen—when he recollected how many lives had been sacrificed to the system of which he was now speaking, he could not but feel that it was on every account entitled to the solemn consideration of parliament. The House was already aware that on the 1st of April, 1820, a treasonable placard had appeared at Glasgow and Paisley. He had it in his hand; it was not so violent as many of the others; but what were the consequences of that? [Here the honourable gentleman read part of the placard]. As soon as this placard had made its appearance, the magistrates offered a reward of 300*l.* for the author, and his majesty's government having received the information, offered a reward of 500*l.* on the 8th of April, with a promise of pardon to all but the individual who wrote it. Nor did the proceedings rest there. On the 8th of April, the heads of twenty families were arrested at Glasgow and Paisley, and put into confinement; and he had a letter in his hand from one of those individuals, a very respectable person, which stated that he was conveyed to prison by a military guard, and that when he was brought to be examined before Mr. Hope, the charge against him was, for having issued a treasonable placard. All his papers had been seized in the mean time. Yet the only ground upon which the accusation could be supported was, that they had found out that he was a friend of rational reform, and disapproved of the introduction of the military, except in subordination to the civil power, and in cases of extreme necessity. Thus, in one night, the heads of twenty families were seized; an evil of no small magnitude itself to the unfortunate individuals, but still worse, and more calamitous than that, those riots were produced which ended in special commissions, and as every body knew, in public executions. It was, therefore, of more importance that the proceedings to which he alluded should be traced to their source. The common answer given by persons of authority, when applied to for the purpose of detecting any conspiracy of this kind, was, that it was extremely difficult to trace these things. But, what would these persons think when they heard that the individual connected with them had been traced by Mr. Charles Pearson in a manner which did him much credit? On the appearance of the placard issued in the name of the Queen's Plate-committee, Mr. Pearson had naturally felt much concerned, because he was connected with that committee; and accordingly he used every means which ingenuity could suggest to detect the author. He might here remark, that this committee had been occasioned by the conduct of his majesty's ministers, and the detection of this conspiracy seemed a judgment upon them for their treatment of the Queen. He said so, because he was convinced that this conspiracy was carried on and supported by his majesty's ministers [Cries of "hear, hear!"]; and he should not have laid the matter before the House if that had not been his belief. He had not come to make the present statement on his own simple judgment; he had affidavits of all the facts he was going to state; so that, if his statements were in any respect erroneous, the fault was not his. He had not been satisfied with the declarations of one, two, three, or five individuals, but he had himself traced the hand-bill to the person who received the commission from Franklin; he had examined the compositor who set up the bill, and was furnished with his depositions on that subject. He had also seen the bill-sticker, who had been employed to stick them up by night; and, in short he had taken every precaution to arrive at the truth. The first affidavit he should read

was that of the printer, who had produced eighteen other hand-bills printed by him, all of the most inflammatory nature. This person stated who it was that employed him, and who it was that paid him—and that was William Franklin, whom a magistrate of Bow-street had allowed to escape. To those who were magistrates he would state the following fact, and leave them to judge of it for themselves:—Franklin was arrested on the warrant of one magistrate, and, after having been brought to the office, was discharged by another, without even seeing that one who issued the warrant. He was discharged, too, on Sunday—a thing which, he understood, was not usual. Vickery, the officer, who was not in town at present, had told him (Mr. Hume), that Franklin was discharged from his custody on Sunday, by sir Robert Baker, without having seen him. He was taken in bed at 5 o'clock on Sunday morning, and at 7 o'clock he was brought before Mr. Birnie. Mr. Pearson, who was unable to attend, thought it proper to write a letter to the magistrate, stating that the charges were of such a nature, that he should be cautious in taking bail for his appearance, and that, if bail were admitted, it should not be less than two securities of 500*l.* each. Although the charge on which the warrant was granted, referred only to one hand-bill, there were fifteen others ready to be produced against him. The consequence was, that Mr. Birnie, seeing the importance of the charge against the prisoner, refused to accept bail. Franklin then said, he wished to be taken before sir Robert Baker, for he was sure sir Robert would admit him to bail. He (Mr. Hume) was not prepared to state that the letter of Mr. Pearson to Mr. Birnie was shown to sir Robert Baker; but the fact was, that the latter allowed Franklin to escape. Now, his objection to the conduct of sir R. Baker was, that he acted improperly as a magistrate; and he had, in fact, stated a deliberate falsehood in his (Mr. Hume's) hearing—namely, that he had taken security for this person's appearance. What connected this with the Home-office was, that when it was said the man would not be forthcoming, sir R. Baker had declared that he was sure he would, and that he had taken proper security. But Franklin's daughter having told Williams, next day, that her father was a hundred miles from London, Mr. Pearson went to the Home-office on the subject, and found that Mr. Clive, the under-secretary, was already acquainted with all the facts. The object of his motion for bringing sir R. Baker to the bar of the House was, to know when he made the communication of these facts to government, and what was his reason for letting Franklin escape. Considering all the facts of the case, he thought he was warranted in saying, that this conspiracy was connected with the Home-office. Mr. Pearson, on applying at the government-office for assistance in the apprehension of Franklin, presented some of the hand-bills to Mr. Clive, that he might judge of their character; and that gentleman had said to him—"Oh, we know all the circumstances already, and if you will call to-morrow, we shall give you an answer." Mr. Pearson then stated that he knew Franklin had proceeded in the course of the night 100 miles from London, and represented that his object was to prevent the man from escaping. Mr. Pearson, and those who accompanied him, left some of the bills at the office; and, when they came back, the answer given them was, that my lord Sidmouth did not think the subject worth an investigation by government. It was not his intention to go through all the placards of which he was in possession; but he should select a few, for the purpose of showing the manner in which government had proceeded. In 1796, while the duke of Portland was secretary for the Home-department, an inflammatory hand-bill was issued, which did not amount to half the mischief which those that he complained of were fraught with. The paper was found on the door of the town-hall of Denbigh, on the 3rd of February, and on the 13th of the same month, government issued a proclamation offering a reward of 100 guineas for the principal offender, accompanied with a pardon to all the other persons concerned, who might give information at the office of the secretary of state. In a later instance, when a treasonable paper, entitled, "An Address to the people of England, Scotland, and Ireland," and purporting to be issued by a committee of organization, for forming a provisional government, was affixed to the walls in Glasgow and other places, on the 1st of April, 1820, a proclamation was issued on the 11th, offering a reward of 300*l.* for the author or printer, and a pardon to the inferior agents, as in the former instance. The gentleman who waited on Mr. Clive had requested that govern-

ment should offer a reward in the present case, as an inducement to the officers to be on the alert. Every one knew the effect of such proclamations in stimulating the vigilance of those persons, but lord Sidmouth was of opinion that government ought not to interfere with that public-spirited magistrate sir Robert Baker—who had done nothing [hear, hear!]. But government, it seemed, was determined to do less. If such was to be the conduct of government in all such cases, in what a situation must the country be placed? When he called to his recollection the use that had been made of the placards, and the fact of the individual being without means of his own, for he would prove that he had no visible means of support, he trusted the House would accede to the appointment of a committee. He would farther prove, that he had dined with a minister of the Crown, at least that he had left the house to do so. He would show that he had been traced with one of the placards from Howland-street to Charing-cross, from Charing-cross to St. James's, and from St. James's to the large house in Downing-street, where the sentry walks; that he entered that house, and, after some delay, came out and proceeded to the house of Mr. Denis O'Bryen, in Craven-street, who now denied any acquaintance with Franklin, though, perhaps, he would be convinced before long that he knew him as Fletcher. With these collateral, or as he would call them conclusive, grounds upon his mind, he felt every confidence in proceeding with his case. He had selected three placards from the mass before him. In the first place, he would lay before them the affidavit of the printer:

"Arthur Seale, of No. 160, Tottenham-court-road, in the county of Middlesex, printer, on his oath saith, that in the latter end of June, or the beginning of July, 1818, a man of gentlemanly appearance, who was then a stranger, called at my office, and asked me if I would print some bills, saying, if I would undertake to do them, it would be very beneficial, as there would be a great deal to do in the same way, and he then produced the manuscript of a bill; I read the bill, and perceiving that it was of an inflammatory nature, I hesitated doing them, whereupon he said he would allow me a little time to make up my mind, and accordingly he went away, and returned in about two hours, when I still scrupled, and he said, I need not fear, for that I should be protected in all I did. I then asked his name and address; he answered, that was of no consequence, for I might rely, not only on being protected, but amply rewarded. I then printed five hundred, and he came and fetched them away at night. On the 12th of July he again came and brought me the manuscript of a bill relating to the chairing of sir Francis Burdett, in the body of which are these words—'Have we not in our glorious Burdett a leader fit to disturb the peace of all the world, and rule it when its won:' and also, 'Strike not at all, or strike home; think of our present insupportable servitude, and always remember that the alternative is liberty or a glorious grave.' And I further on oath depose, that a few days previous to the trial of sir Francis Burdett at Leicester, the same gentleman brought me a manuscript letter, headed, 'Private,' apparently intended to be sent to jurors, and desired me to print 48, which I did, and gave them to him. In the course of conversation I understood from him that they were to be sent to the jury who were to try sir Francis Burdett; and I afterwards saw by the newspaper reports that they were used for that purpose. I further depose, that on the 20th of July, 1819, the same person brought me the manuscript of another inflammatory bill, drawing the attention of the public to the Smithfield meeting, which was to be held next day, and headed, 'To the Non-represented,' and I printed, under his direction, near 500 of this last bill, and gave them to him. And I further depose, that I have printed for the same person many other inflammatory and seditious bills, and among others four separate editions of hand-bills respecting the Queen's plate, and headed, 'Evil be to him that evil thinks.' And I further depose, that on many occasions when I expressed my reluctance to print such dangerous papers, and my fear of prosecution, he told me I had nothing to apprehend, for I should be perfectly safe if any discovery took place, and he gave me to understand, that he was officially employed by the executive. But having some doubt of his assertion, I determined to watch him, and also employ others to do the same. And on one occasion, when he left my office I saw him get into a hackney-coach, which I followed to Charing-cross, where he got out, and he afterwards entered two other coaches, and went by a very circuitous rout to Downing-street, and I watched him into a large house next to the sentry box. I waited until he came out again, which was nearly two hours, and I then traced him to the house of Mr. Denis O'Bryen, in Craven-street, Strand. And I further depose, that I have discovered the said person who so employed me to be Mr. Wm. Fletcher, otherwise Franklin. "Arthur Seale."

The next document to which he would call their attention was the following, addressed to the Non-represented, dated, the 21st of July, 1819.—

"To the Non-Represented.—May that day

of trial, which our intrepid leader, in his answer to our requisition, said could not be far distant, be this day.—Universal suffrage, annual elections, and voting by ballot, if possible without breach of peace; but, at all hazards, those objects.—No riot, no bloodshed by choice; but blood-thirsty despots must grant our rights. If that over-grown pauper; if the puppet of C——, of L——, and S——, whose villainous impudence at his late prorogation of the houses of corruption could mock the miseries of the Non-represented by jargoning about our 'happy constitution!'—if he can be put down without breach of peace, let peace be preserved.—If that compound of villainy and fraud, the B**k of E****d—if those who deserve the punishment they inflict upon their fellow counterfeits and merit halters more than the forgers they hang, can be annihilated without breach of the peace, let all be peaceful. Peace is our wish; but let us never forget that resistance to oppression is the constitutional privilege of every Briton. In London, Westminster, and Southwark, there may be perhaps about twenty thousand voters; shall a million of stout non-franchised hearts, reduced to the abject condition of slaves, lick the feet of such a comparative handful of rascals, who trample upon us, as they are lorded over by superior scoundrels? Shall ten-times tenfold the whole body of electors in infamous Westminster crouch to those, who, in a fifteen days' poll, insulted the venerable Cartwright with 38 voices? None but the Borough thieves of both the factions can maintain that any practical liberty remains to once free England. If the work can be done without fasting, praying, or peace-breaking, good; but if the unspeakable grievances of non-representation cannot be redressed without vengeance, 'tis better to break our chains upon the heads of our common tyrants, than longer to endure our servitude. And oh! if the day of trial is come, recollect that the corrupt knaves of the daily London press, with their hellish types, have been our greatest oppressors.—July 21, 1819."

He had a paper in his possession which he considered of great importance to the investigation of the case. It was the only one that had been preserved in the handwriting of Franklin. Having found that he was prosecuted for *crim. con.* by admiral Goodall, he (Mr. Hume) had succeeded in procuring one of his letters to the lady, and on a comparison of the hand-writing with that of the placard, by two persons of skill and ingenuity in such matters, the hand-writing in both was pronounced to be the same. Another address was dated the 7th of Sept. 1818, and was of a nature peculiarly malignant. The object of such publications generally, was to excite the lower and middling classes against the higher; but this was an appeal to the lower classes only against the middling and the higher:

"Let us, in this mighty crisis, bear in mind, that the great are not our only foes. Those middle ranks who make us hew and draw; and dole their pittance to us according to their humour—these are our most grinding enemies. What is the constituent body but the tyrants of the non-represented? What are the ten thousand wretches who, in Westminster, voted against Mr. Hunt, but oppressors of their non-franchised fellow-citizens—content to crawl before the higher orders, that we may continue slaves to both. Alike then, and equal, be their common destiny. The brave, though starving outstanders of Manchester should be avenged in London. Shall non-represented Britons in such a cause, be scared by the fear of gibbets or bayonets? Be our remonstrance to the Crown decorous, but let us, in one heroic day, convince mankind that the grievances of non-representation are now become insupportable. ONE OF THE NON-REPRESENTED.—September 7, 1818."

Here, then, was a series of inflammatory placards, extending from 1818 till 1820. There was, indeed, a small chasm of the Glasgow address, and one or two placards since, which they had not been able yet to trace to their origin. Having stated these facts, and also the conduct of government, and of the magistrate who had a situation in the Home-office, he could not separate from the conduct he had stated, a direct charge of conniving at Franklin's escape. He understood that, when it was reported that Franklin had been at Dover under the name of Harrison, and Mr. Pearson had applied at the Foreign-office for a passport, it was granted with great willingness. This was so far well. Until this individual should be forthcoming, it was impossible that the case could be made as strong as it ought to be; but he was prepared to make out a strong case before a committee, where only the actors and acts in such a proceeding could be fully disclosed. It was found that technical impediments were presented elsewhere to an inquiry sufficiently extensive to be satisfactory. This was an inquiry of the utmost moment; it was a case of state-necessity; it was the peace of the country that was at issue. What was the object of government but the protection of the many against the lawless acts of a few? And if they allowed this conspiracy to pass unascertained and unpunish-

ed, was not the object of government perverted? His own opinion was, but he spoke only for himself,—his own opinion was, when he contrasted this proceeding with the escape of Edwards, who had not been equally guilty with this individual by means of whom twenty families in Glasgow were dragged from their houses, and committed to dungeons;—when he contrasted the conduct of government on this occasion with their conduct towards Castles, well-known to an honourable and learned gentleman opposite (the solicitor-general), and justly described as the well-clothed Castles—and when he found lord Sidmouth describing Oliver as "a much-injured individual;"—when he contrasted the present case with the escape of Edwards, the good treatment of Castles, and the commiseration of Oliver, he was of opinion, that there was just ground for parliamentary interference. No court of law could entertain the question in the shape which the rights of the country required; no court of law could award the justice which the manes of those sacrificed to the arts and practices of such traitors demanded. In taking this course, he thought that, in the first instance, the House ought to have sir Robert Baker brought before them, in order to explain his conduct. If he were one of his majesty's ministers, or one of their advisers, he would court this opportunity of explaining and justifying their conduct. If they refused to avail themselves of it for that purpose, the conclusion against them would be much stronger. The refusal to probe this case to the very bottom would be considered as proof, that countenance was somewhere given to the nefarious transactions in question. Although a Bow-street magistrate could not understand treason against the people, they in that House were bound to inquire into this case for the people of England. That House would not do its duty if they did not call the individual implicated in discharging the offender before them, and probe the whole business to the bottom. If any hon. member could suggest a better mode of proceeding, he was not so pertinaciously attached to his own motion as to refuse to alter it; but he should now conclude with moving, "That Sir Robert Baker, of the Public Office, Bow Street, be ordered to attend this House, to be examined respecting the liberation of William Franklin, *alias* Forbes, *alias* Fletcher, arrested on the 8th of October, on a charge of writing and issuing Seditious and Inflammatory Placards, Letters, and Hand-bills, without bail."

Lord *Castlereagh* declared, that he was quite astonished at the motion with which the hon. member concluded, as it was so very incommensurate with the opening of his speech. But that motion itself was of a surprising character. For he believed it was the first time that an application was made to that House, in the first instance, to take cognizance of the irregularity of any magistrate, the usual way being to make such application to the Court of King's-Bench. But as to the opening of the hon. member's speech, he distinctly charged the existence of a conspiracy for the purpose of fabricating and circulating seditious and treasonable publications, of which he alleged that his majesty's ministers formed a part. What! that ministers should become a party to a confederacy for exciting discontent, for promoting sedition, for contriving the means of endangering the security of the government, and of the constitution of the country, merely with a view to defeat an endeavour to procure a service of plate for the Queen? The hon. member had often drawn upon the credulity of the country, but he himself could hardly calculate upon the acceptance of such a draft at sight as his statement of this evening presented. There was not surely such a lack of libels in the country as to render the assistance of government necessary to the manufacture of such articles. Mr. Carlile, Mr. Hone, and Mr. Wooler, were found, he believed, to produce quite enough of sedition, or of inflammatory and treasonable placards, to satisfy the amateurs of that species of composition, and to forward their object, without any aid from his majesty's government, which it was their object to overthrow. But, if ministers were parties to the conspiracy, which the hon. member alleged to exist, how clumsily must they have proceeded, according to his description. They, indeed, if the hon. member's information were correct, had selected an agent for the advancement of their end, who must necessarily have been brought into public view; for, as that hon. gentleman had stated, Franklin, who had absconded, was the confidential friend of ministers, with whom he dined on one day, while on the other he was found in a carriage with a multitude of seditious placards, accompa-

nied by a person almost without clothes, and who was employed to distribute these placards in such an ostentatious manner, that detection could not be avoided. So that the person thus employed was taken into the very midst of danger, from which no one could hope to protect himself, to distribute seditious hand-bills; and this was done, or directed by a man whom the hon. gentleman described as the confidential agent and convivial companion of ministers of state. Amidst the indefatigable efforts of the hon member to collect accusations against his majesty's ministers, the present was really the most extraordinary. It was surprising, indeed, that the hon. member should have attempted to bring such an affair before that House. He assured the hon. member, that he fully concurred with him in thinking, that if any one connected with government could take any part in such a conspiracy as he charged to exist, either as a principal or as an agent, such person would deserve the utmost detestation. Any person, indeed, ought to be consigned to universal execration and contempt who could countenance, promote, or belong to such a scandalous confederacy; for the publications which the hon. member had quoted were of the most infamous description. They bore, indeed, upon the face of them such flagrant guilt, that he thought them not unlikely to have proceeded from some radical committee, so peculiarly calculated were they to favour the views of such a committee, and so congenial were they with that abominable system which had brought this country to the verge of a national convulsion. Ministers then, if they had promoted such publications, must have determined to second the views of the radicals; for such publications were those which the radicals must naturally desire to circulate. But could any one of common sense or common justice suppose ministers guilty of lending their aid to such an infernal purpose? If a conspiracy existed as the hon. member charged (for the charge of conspiracy was the fashionable cant of the day) would any man, whose mind was informed or regulated by the principles of justice and the laws of the land, determine that instead of carrying the charge before the ordinary and regular tribunal, an inquiry should be instituted in that House, upon so grave a question, in the way proposed by the hon. member? But upon what ground was the hon. member's application made to that House? Why, upon the affidavits of persons who deposed that they were acquainted with the existence and progress of the alleged conspiracy since the month of April.

Mr. *Hume* said, No, from September last.

Lord *Castlereagh* maintained, that affidavits were produced by the hon. member from persons who stated that they had a knowledge of the proceedings of this alleged conspiracy since 1818, when the placard referring to sir Francis Burdett was promulgated during the Westminster election. Did the hon. gentleman then really mean, that persons who were so long in possession of the character and conduct of this plot, without making, until very lately, any disclosure upon the subject, were, entitled to the credit which he appeared to assume? The hon. member came forward with extra-judicial affidavits, which, if even full of falsehood, could not subject the deponents to any punishment; and yet, upon the faith which he claimed for such affidavits, he came down to that House to propose the institution of a parliamentary inquiry. If upon such grounds any proceeding was founded, it was scarcely possible to imagine into what awkward situations the House might be occasionally led. It must, indeed, suggest itself to any one acquainted with the laws of the country, that that House was not the proper place for such an inquiry as the hon. member desired to institute. Having said so much as to the folly and absurdity of the course which the hon. member proposed, with regard to a case already in a course of legal proceeding—

Mr. *Hume* asked, where?

Lord *Castlereagh* replied, that a warrant had been granted for the apprehension of Franklin, and, if justice should not appear to be duly administered, it would then be time enough to call upon that House to interfere. But, with respect to the case of Franklin, he would now state to the House an outline of what he understood to be the particulars of that case, and what remained, other gentlemen, from whom he obtained his information, would be ready to supply. It was only this day that he had been at all aware of the intention to bring the case before the House; and feeling it his duty to make every inquiry which the time afforded, he obtained all the information in his power upon the subject. But first he would assure the hon. member, that until

that night he knew nothing whatever of Franklin, or Fletcher, or Forbes, except through the newspapers, and that he could make the same assurance on the part of all his colleagues. After saying this, he thought it not necessary to deny the convivial part of the hon. member's charge. With respect to the other parts of the charge, he could state, upon the authority of the Home-department, what had occurred upon the subject. A warrant was granted, for the apprehension of Franklin, by Mr. Minshull, the police magistrate, upon an affidavit from Mr. Pearson, which affidavit certainly contained rather loose charges against the accused. Franklin was, however, arrested, and upon his arrest was carried before Mr. Birnie, to whom application was made for his release. But the ground of the application being deemed unsatisfactory by Mr. Birnie, with whom he (lord Castlereagh) had had no opportunity of conversing upon the subject, the application was refused.—Franklin was then taken to the house of sir Robert Baker, in Berner's-street. The hon. member in his eager zeal to fix an imputation upon his majesty's ministers, had thought proper to insinuate, that the arrest of Franklin was known at the Home-department before sir Robert Baker dealt with the case, and the object of that insinuation could not be misunderstood. He (lord C.) had not the honour to know sir Robert Baker, except by sight, but he was assured by the Home-department that sir Robert was a most honourable man, and that in any capacity he was not the sort of character likely to submit to the dictation of any man. Such was the magistrate who thought proper to release Franklin, upon his solemn assurance that he would appear again next day, that assurance being seconded by a very respectable tradesman, who was known as such to sir Robert. But as to the hon. member's statement respecting the time at which the arrest of Franklin was known to the Home-department, he could assure the hon. gentleman, that this department had received no information upon the subject until the Monday; and he could further assure the hon. gentleman, that the information as to Franklin's non-appearance at Bow-street, notwithstanding his pledge, was received in the first instance, not from sir R. Baker, but from Mr. Minshull, who thought proper to apply to the office to issue an order for stopping Franklin at the out-ports, or to proclaim a reward for his apprehension. Therefore it was not correct that this application originated with Mr. Pearson, as it was made by a magistrate, who thought that the course which he recommended was the best mode of curing the evil that resulted from sir Robert Baker's liberation of Franklin. Mr. Minshull's application was set aside by his hon. friend behind him, *ad referendum*, for the consideration of lord Sidmouth, who determined against the propriety of issuing, in such a case, either a proclamation for Franklin's apprehension, or an order for stopping him at the out-ports. Such an order had, indeed, never been issued, unless upon a charge of felony or treason; and it was naturally apprehended, from experience in such cases, that if an order were issued for stopping Franklin at the out-ports, above twenty Franklins would have been most probably arrested. He would appeal, then, to the hon. gentleman, what was, in candour, likely to be the decision of his mind, if the question were taken the other way? If, instead of a supposed agent or partisan of government, the object was to arrest an apostle of liberty charged with sedition, and that lord Sidmouth issued a special order to stop him at the out-ports, what loud objections were likely to be heard against such a proceeding, by those who had raised such an out-cry against the circular letter of lord Sidmouth, with respect to the holding of a libeller to bail upon an affidavit before a magistrate. If, indeed, lord Sidmouth had issued such an order in such a case, there could be little doubt of motions in that House, day after day, pregnant with complaints of the violation of the liberty of the subject.—But as to the original arrest of Franklin, he held in his hand the affidavit of Pearson, upon which the warrant for that arrest was granted by Mr. Minshull, and he could not help expressing a doubt whether, upon more loose allegations than this affidavit contained, a warrant to hold a man to bail, could have been obtained from any magistrate. There was no such word as treason or felony in any part of the affidavit. There was indeed the word "treasonably" mixed up with the word "sedition;" but that the offence, as it stood, was a bailable offence, was clear; because the whole charge against sir Robert Baker was, that he had not regularly required bail. It was hardly necessary to trouble the House with reading the papers, because all that Pearson

had sworn was, that he had reason to believe (upon grounds which he did not describe), that the person who had delivered the placards to the boy was a person named Franklin, but whose Christian name he did not know. He (lord Castlereagh) had no design to lessen the magnitude of the charge; the act imputed was an act equally profligate and mad; but he did think that, under the circumstances, lord Sidmouth had exercised a sound discretion, in declining to issue the warrant which had been applied for. The hon. member opposite had stated, and with great candour, to the House, that Pearson had found no indisposition in any department of government to assist him in pursuing Franklin, and following up his charge; that passports had been immediately granted and every facility afforded. He believed that passports were unnecessary; but he was free to state, that every step had been taken to induce the foreign authorities to assist the efforts of Mr. Pearson; and that his majesty's ministers were most anxious that those efforts should be successful—that Franklin should be produced—that the charge should be brought forward, and the offence, if proved, punished with the utmost severity of the law. —There was only one more observation with which he would trespass upon the time of the House. The Foreign-office, he scarcely knew why, did very often find its way into the mouth of the hon. member opposite; and it had been introduced, he hardly knew how, upon the present occasion: it had been said, that the individual, Franklin, had been traced to a house in Downing-street, where there were two soldiers at the door. Now, he begged most clearly and directly to state, without evasion, equivocation, or mental reservation, his firm belief, that no individual connected with government had any connexion of any kind with Franklin. The noble lord then contended, that the House ought not, at all events in the present stage of the business, to interfere; that the matter, which might be considered in a train of legal investigation, would be more properly examined in a court of justice, where testimony upon oath would be substituted for assertion; and concluded by characterizing the case presented by the hon. member, as the most inconsistent, inconceivable, and incomprehensible romance that had ever been invented for the annoyance of a government.

Mr. *Bennet* said, he knew not which was most to be admired, the lofty tone which the noble lord had maintained throughout his speech, or the lame and impotent conclusion, in which that speech had terminated. Surely, it might have been expected, that persons so anxious to prove their innocence before the House and the country would seize the first opportunity which presented itself for investigation. But the noble lord objected to examination even *in limine*,; he would not suffer the House to look at the subject—and why? Because, forsooth, a criminal information might be filed against the magistrate in the court of King's-bench! but he would tell the noble lord, that, before any thing could be done in a court of justice, corruption must be proved; and, although he did not mean to accuse sir R. Baker of corruption, he had no hesitation in saying, that the conduct of that gentleman had been most irregular and extrajudicial, and that he ought to be called upon, at the bar of that House, to explain a conduct which, in spite of the defence of the noble lord, still remained involved in suspicion. Was there an instance—he would put the question to any magistrate sitting in the House—was there an instance in which a warrant granted, no matter upon what ground, by one magistrate, had been dismissed by another, without the complainant or the granter of the warrant, being consulted in such dismissal? He did hope, that he should have some better excuse for the apathy of the Home-department than that which had been offered by the noble lord who had last spoken. He looked at the conduct and at the character of the Home-office in a very different light from that in which he viewed either the noble lord's office or the War-office. Those departments had not fed a Castles, clothed an Oliver, or panegyrised an Edwards. In cases like the present, he looked at the Home-office with suspicion. It was an impure office; and he so considered it, not from any airy fancy of his own, but from facts which were in the mind and in the mouth of every man in the country. Lord Sidmouth had been told, "Here is a man committing an act of almost unparalleled atrocity; he is distributing papers of the most inflammatory and dangerous tendency; this is not his first offence; he has been two years engaged in the commission of similar crimes; and he has done all this, calling himself a loyal man,

and having received reward for his loyalty. Lord Sidmouth had heard all this, and had thought it not worth his while to interfere. After such an escape, he really believed that there was no individual in the country, lord Sidmouth alone excepted, who would hesitate to give any assistance in his power, whether by proclamations, by pecuniary sacrifices, or by personal exertions, to facilitate the apprehension of such an artful and abominable incendiary. But what rendered the conduct of sir Robert Baker more extraordinary was this, that usually no magistrate released a prisoner, even upon bail, without consulting the magistrate who granted the warrant for his apprehension, or the party by whom that warrant was obtained; and that custom was founded upon this reason, that it did not follow, because only a certain charge was alleged in the warrant, that there might not be other charges against the prisoner. Here the hon. gentleman took occasion to contrast the manner in which the principal in this case was allowed to escape with the manner in which his miserable instrument was treated—that instrument, a poor boy, who could not read, having been fined and committed to prison for three months by a magistrate, who mocked common sense while he pronounced the sentence, by the pompous profession of humanity. But the ministerial connexion of Franklin, notwithstanding all the noble lord's lofty language, it was not difficult to imagine. He was traced, it appeared, into the house of Mr. Denis O'Bryen, whose intercourse with some of the ministers the noble lord would hardly venture to deny. Yet Franklin was the connexion of this person, who had aggravated the turpitude of his apostacy by the foulest and most unprincipled attacks upon the character of those gentlemen with whom he was at former times permitted to enjoy some society, while he affected to concur with them in political opinion. Two scurrilous letters, which were some time since addressed to earl Fitzwilliam, in "The Morning Post," and which he was sorry the noble lord had not prosecuted, he understood, could be fully proved to have been the production of this O'Bryen. Of such a man, Franklin was a worthy colleague in this base confederacy, the main object of which had for some time been, to depreciate the character, to wound the feelings, to aggravate the sufferings of a woman, and that woman a Queen. He did not mean to charge ministers themselves with sanctioning such a system of publication. But there were notoriously some minor agents, who had long pursued that system with a view to alarm timorous people into a belief of the existence of a base and black spirit in the country, and thus urge such people to rally round ministers, although they abhorred their general principles, and execrated their general conduct. The noble lord ought, in his opinion, to feel obliged to his hon. friend for bringing forward the present motion, especially as it afforded the noble lord an opportunity of proving that innocence which he so confidently affirmed on the part of himself and his colleagues. But he could not help observing that it was a strange way of proving their innocence, to shut up every avenue to the detection of their guilt; and the noble lord opposed all inquiry by stopping it *in limine*, on this occasion. Still he hoped that his hon. friend would persist in his motion.

Mr. *Clive* declared, that the Home-office, in which he had the honour to hold an appointment, had no knowledge of the case of Franklin until the Monday after Franklin's arrest. It was the custom of sir Robert Baker to attend at the Home-office every Monday for the purpose of making an official communication. Upon the Monday alluded to, some conversation took place with respect to Franklin, and the boy detected in circulating the seditious bills. But the first information of Franklin's non-appearance was brought to the office by Mr. Minshull, who made the application referred to by the noble secretary of state. Mr. Pearson came immediately after Mr. Minshull. The latter might, indeed, have almost met the former going down stairs. Mr. Pearson left with him two hand-bills, the one issued with respect to the trial of Brandreth, and the other upon the subject of the Queen's plate. He answered the applications of Mr. Minshull and Mr. Pearson doubtingly at first, but upon reference to lord Sidmouth, to whom he showed the papers left with him by Mr. Pearson, he was instructed by his lordship to say, that it would be inconsistent with official practice to comply with these applications, or to interfere with the police magistrates, who had ample powers to take proceedings for the apprehension of Franklin. Of this Franklin he had heard for the first time on the Monday after his arrest; and

as to Mr. O'Bryen, all that he had ever heard of him was, that he was many years ago the author of some political pamphlets; and that he held a place under the government, to which he was appointed by the administration of 1806.

Mr. *Gurney* declared his intention to support the motion. The worst symptom of the times was, the total want of confidence in the government of the country, which existed in all classes of the community, and amongst persons of every variety of political opinion. This want of confidence was an enormous evil, and it was the duty of the House to sift to the bottom any transaction which came before them in so questionable a shape as the present one. But his principal reason for rising was, to remark shortly upon a part of the speech of the noble secretary of state.—The noble lord had distinctly avowed, that he had given Mr. Pearson letters to the English ambassador at Paris, to aid him in the apprehension of Mr. Franklin. Now, it must be remembered, the offence charged was, the distribution of seditious hand-bills; and if the governments of Europe were under agreement to play into each other's hands in this way—mutually giving up persons who might be obnoxious to accusation for political misdemeanors, it would go, under the present circumstances of the world, to the establishment of the most unqualified tyranny. Our Alien act had been loudly declaimed against; but the enactments of our Alien bill shrunk into nothing, as compared with the exercise of arbitrary power, which it appeared the noble lord had claimed of the government of France.

Lord *Castlereagh* rose to explain how the case stood as to the facts mentioned in the latter part of the hon. member's speech. The assistance which was occasionally rendered by one country to secure the persons who had fled from justice in another, was only given in consequence of mutual arrangements. This country had been applied to to make such arrangements; but there was not one of the powers which had made those applications, respecting the securing of murderers and forgers, to which it had not been told, that whatever assistance they might give us, we could not give reciprocal assistance, as it was repugnant to the spirit of our laws; for whatever notion existed that the Alien act had been indirectly applied to that purpose was quite erroneous; all foreign powers had been informed, that such assistance was against our laws, and that whatever aid they might give us, there could be nothing reciprocal.

Mr. *Gurney* said, his allusion was to the demand made for the giving up a person accused simply of seditious proceedings, and had no reference whatever either to murders, felonies, or other crimes.

Mr. *Gipps* could not vote for the motion, but said, that for several months past he had seen with indignation the activity with which placards of the most inflammatory nature had been circulated, to excite the people to discontent. He thought that this could not have been carried on to such an extent if the Home-department had been sufficiently active, and had employed agents either to pull down the placards, or to bring the authors to punishment.

Mr. *Bernal* wished to know whether the noble lord meant to let the matter rest in its present shape, and whether he would refuse that inquiry which was so necessary? Without imputing to the administration itself, a participation in the criminal matters which had been discovered, it was not too much to infer that there might be knaves and fools in the inferior departments of the government. Very grave facts had been stated, that had not been repudiated in any material respect. This fact especially remained unshaken, that notwithstanding the reasons stated by various gentlemen at the Home-office, steps were not taken to apprehend the offender, and that even as yet no reward had been offered, though in the case of the placard published at Glasgow, a reward of 500*l.* had been offered for the author, whose production did not contain any thing more criminal than the placards which had been issued by the person who had absconded. The noble lord had referred them to the court of King's-bench, and had said, that that Court would take cognizance of the whole affair. This he denied. They would have nothing to do with the agents of government. The Court would try any offence which was charged against an individual, but would not trace the whole of the transaction. He, therefore, thought, that if the noble lord induced the House to throw out the motion of his hon. friend, he was bound to pledge himself to take some measure which his great influence might enable him to carry through at a future time to elucidate these transactions.

Sir *John Sebright* said, that in this, as in all other cases, he was the friend of the fullest inquiry, but he did not see any practical end that would be answered by calling sir Robert Baker to the bar. As to any participation which the government of the country was supposed to have had in the distribution of these placards, he could not conceive for a moment that they would have been so absurd as to commit such an act of suicide. The thing was improbable on the face of it, and he gave full credit to the assertions of the noble lord, which he had never any reason to question. He was sorry to agree with Mr. Gurney, that the government of the country was excessively unpopular, and that was a reason for the fullest inquiry. But, what was equally important, he was sorry to believe, that in such a state of feeling as existed, the people would be satisfied with no government whatever. The ministers had given reason for discontent; but all possible means had been employed to foment it.

Mr. *Tierney* said, he was very forcibly impressed by what had been said by an hon. gentleman as to the state of the public mind, which demanded a full inquiry into all proceedings of the nature of that which had been brought under their attention. The noble lord should bear in mind, that whatever he might say, whether the magistrates might be justified or not, whether the Home-department was in the right or not, a general impression prevailed in the country, that the government, in order to produce explosions, were accustomed to employ agents, who systematically urged the discontented to go greater lengths than they would otherwise go to. The fact, too, yet remained unexplained and unanswered, why a reward had not been offered. Here was a case in which a person had been distributing placards almost treasonable; he was apprehended, and taken to the Police-office, and then a different magistrate from the one who had caused him to be apprehended comes, and on what he considers the assurance of a respectable gentleman, discharges him. The man absconds—on the face of it this was an implication of guilt, and yet the government said, that there was on the face of this nothing which justified their interference! But what said the noble lord to this? Why, that it was all a dexterous plan of the radicals; and so because the noble lord was pleased to suppose that it might turn out to be a plan of the radicals they were to rest content without any inquiry! As to the motion which had been submitted to the House, he was sorry he could not vote for it, because, in the first place, they could not properly call the magistrate to the bar to criminate himself. The noble lord had observed, that they should give a little time to see whether the man who had absconded could be found. To this he had no objection, and he hoped his hon. friend would, with a view to see what might be the result of the efforts to apprehend him, withdraw his motion for the present. That some inquiry should take place in the event of the man's not being apprehended was absolutely necessary. It was impossible to conceive any thing more calculated to inflame the public mind, than the facts which now stood before the public. The placards which had been issued by this person were ten times more inflammatory than those which, not long ago had been put into green bags and formed the ostensible ground of laws against the liberties of the people. He had said thus much because he wished it to be known, while he objected to the form of the present motion, that he was not insensible to the facts which had been disclosed. He believed that the impression, as to the part which the government had taken in proceedings like this, was working in the public mind. He had heard it from so many quarters, that he felt a firm persuasion, that unless the matter was sifted to the bottom, this feeling would produce unpleasant consequences. He hoped, however, that the Home-department would be able to give what they had not yet given, a satisfactory account why, after all the representations that had been made, they had not offered a reward for the apprehension of the offender. It seemed odd, by-the-by, that the noble lord, should have written letters for the persons who went in pursuit of the fugitive, which according to his own account, were not worth a single shilling. "Oh," said the noble lord, "I gave them letters to sir Chas. Stewart, and would willingly have given them letters to the ministers in any other countries, but foreign governments will not interfere at our request." Now there was no reason to think the noble lord was correct in this. He had read in the newspapers, that there were cases in which foreign governments had actively interfered to make their own subjects come over to this country [Hear!].

There were statements of persons who had been examined as witnesses, and who declared, that they had no notion of coming over here, but that they were obliged to come by their governments [Hear!] And how did it happen that those governments interfered, but that they knew it was an object of desire to our government to get those witnesses sent here? The noble lord, however, said, that if we received obligations of this kind from foreign countries, we could never oblige them in return, for that the Alien act was never employed directly or indirectly to any such purpose. The noble lord's memory was treacherous; two of the most respectable individuals in Europe had been ordered to leave this country, not because they were doing any thing contrary to the interest or wishes of our own government, but because their residence here was unpleasant to a foreign government. [Lord Castlereagh gave signs of dissent]. Had the noble lord never heard of ——, a Dutchman? [Mr. Tierney here mentioned a name which was not audible in the gallery; lord Castlereagh said across the table, No.] He affirmed the fact on evidence which left no doubt on his mind, that these persons were sent out of the country merely at the wish of a foreign government. The fact occurred about two years ago. It would hereafter be brought in a distinct shape before the House. He hoped his hon. friend would withdraw his motion; as the day could not be far distant when either the man would be apprehended, or his apprehension would be shown to be impracticable. In the one case it would be investigated in the ordinary course of law, in the other, the Home-department would be bound to give the most satisfactory explanations why they had not used the same means of apprehending the offender in this as in other instances.

Lord *Castlereagh*, in explanation, denied having admitted, that the letters would be of no use. He had only stated, that foreign governments were not bound by any agreement to assist in the arrest of subjects of this country, except in the cases he had mentioned; but they had in many instances given that assistance, when they were not bound so to do. The case of the individual alluded to was only a misdemeanor, and they might if they pleased assist even in that.

Mr. *Clive* observed, that it was not the practice of the Home-department to offer rewards in cases of offences similar to the one charged in this instance. They had offered a reward for the apprehension of the author of the Glasgow placard; but then it should be recollected, that that was in times of known existing treason.

Mr. *Beckett* was anxious, in addition to the statement of his hon. friend, to mention, that in the course of his experience it was not the practice of government to offer rewards in such cases as the one alluded to. They usually offered rewards in cases of murder, burglary, and other cases of violence; and the reason was, that the party being likely to escape, the offer of a reward would tend to prevent the purposes of justice from being defeated; but it was only in cases where it was supposed that the ordinary methods would fail that such rewards were offered. But this application was made *instanter*, and the secretary of state of course said, "you must first employ the ordinary means;" if those failed, it then became a question whether the extraordinary means at his disposal should be resorted to. With respect to sir Robert Baker, he could not let the debate pass without observing, from his knowledge of that gentleman, that he was utterly incapable of a corrupt motive. But whatever might be thought of him, it was quite impossible for any one to condemn him in that House, when the law had provided a remedy in the court of King's-bench. It was open to any member of the House to bring the conduct of sir R. Baker before that court.

Mr. *Brougham* said, he only wished to express his entire concurrence in the recommendation to his hon. friend to reconsider his motion, and to postpone his proceedings till the ordinary means of detection, and he might add, the ordinary means of defence had been resorted to; for though there might be a *prima facie* case, and though he was the last to deny the right of the House as the great inquest of the nation, without waiting for the decision of any other court, to inquire into circumstances which were presented to them, though this right was inherent and inseparable from them at all times, yet the very fact that it was an extraordinary power, showed that it should not be exercised, but on very extraordinary occasions. He quite agreed, that the ordinary remedies of the law afforded no means for inquiring into the conduct of the ministers; but the facts stated, afforded no matter of impeachment, and if they were

pressed at all, they must go to impeachment. But with respect to sir Robert Baker, though he was glad to hear the statement of the judge-advocate, it was utterly inconsistent with that of the hon. member for Montrose. A magistrate might be right or wrong in the use of his discretion of setting a person at large without bail, and supposing him to be wrong, he might be wrong only through error. The statement of the hon. member for Montrose seemed, however, to be inconsistent with a correct motive, for when sir Robert Baker had set this person free without bail, he represented that he had taken bail, and that the person would be forthcoming in a few minutes. He hoped there was some misunderstanding on the subject; and he was the rather inclined to believe there was, as the conduct of sir Robert Baker must appear very foolish, as well as very culpable, in making a false statement, which was sure to receive a decisive and speedy contradiction. But what required more explanation was, that no reward had been offered by the Home-office. The representation had been made to that office, not by any private person, it should be observed, but by the magistrate who had issued the warrant. The judge advocate had made this defence for the secretary of state, that the offer of rewards was only an extraordinary remedy, that the offer was never made in the first instance, that it was necessary to see whether all other means had failed before they resorted to this. But in this case the government was the party, and they had shown no lack of alacrity on other occasions. Was it not also a material fact, that at the time when the application was made to the Home-office, the ordinary means in such cases had been resorted to in vain; the man could not be found. The statement of the right hon. gentleman was not a defence; he hoped ministers had something else to offer, and he wished them a better advocate.

Mr. *Beckett* believed he had been misunderstood in what he had said with respect to sir Robert Baker. He had stated, and he repeated the assertion, that from the knowledge he had of that gentleman, he believed him wholly incapable of acting from a corrupt motive. But if any fault was found with his conduct, the King's-bench was the place where that conduct might be inquired into. As to the offering of a reward, it was not customary to use the king's prerogative except in such cases as those he had mentioned. But in other cases the secretary of state would require, that it shoulds atisfactorily appear that the ordinary mode had failed before he resorted to a reward. Now, in the present case, that could not have appeared; for the thing was only known in the office about an hour befor the time mentioned.

Mr. *C. Calvert* joined in the suggestion to the member for Aberdeen to withdraw his motion. As to Sir R. Baker, he was convinced that he was as incapable of stating a falsehood as any man in or out of those walls.

Sir *R. Wilson* wished to know whether, in case of the apprehension of Fletcher, the law-officers would be directed to prosecute? If not, the expense would fall upon individuals, and there would be no more possibility of redress, than there was for the sufferers at Manchester.

Lord *Castlereagh* said, he could not answer for a department of which he was not at the head; but he had no doubt there would be every anxiety shown to bring the author of those placards to punishment.

Lord *John Russell* expressed his satisfaction, that notwithstanding the activity with which those seditious and inflammatory placards had been circulated within the last few years, and the great distress and privation of most of the lower ranks of people during that time, they had been productive of so very little effect, and that it should be a matter of consideration, that perhaps some of those unfortunate persons who were now suffering in prison for having been connected with illegal meetings, might have been instigated by some of those placards.

Mr. *Hume* said, that though he still thought the motion which he had made was proper on the commencement of the inquiry, he should yield to the superior experience of others, and withdraw it. The noble lord had made a bold assertion when in defence of the placards he had said, that more seditious publications daily issued from the press of Wooler and Hone. If the noble lord was sincere, he had then passed the severest censure on the attorney-general, who had suffered them to go unnoticed. But he utterly denied that such was the fact, or that Mr. Hone or Mr. Wooler ever published any thing like those placards. It was a piece of injustice, and only a trick of the noble

lord to cover himself, to insinuate that these placards originated from radical committees. He (Mr. Hume) had not "drawn on the credulity of the House;" he had given them affidavits and facts which did not rest on his assertion; and as to the general statement of the impression which prevailed in the country, he was fully borne out by the testimony of the hon. baronet (sir J. Sebright), and another hon. gentleman, near him (Mr. H. Gurney). The noble lord had attempted to turn off these charges by protestations of innocence. But protestations would not serve against grave and serious facts. The only course which he could have pursued with credit, was, to pledge himself at a future period to institute a full inquiry. He had not done so, and that was quite sufficient to identify the proceedings with the government. He had no hesitation in saying, that sir R. Baker had asserted in court, that he had taken bail, and that Franklin would be there by-and-by. He was one out of many hearers, and neither this nor any other of the statements rested on his individual testimony.

The motion was withdrawn.

THE QUEEN—BILL OF PAINS AND PENALTIES — ADJOURNMENT.] — The committee appointed to search the Lords' Journals, made its report, through Mr. Brogden. The report being read,

Lord *Castlereagh* moved, that the report do lie on the table. He should also move a further adjournment of the House to a period when it was probable the bill would one way or other, be disposed of in the Lords. When the House had last met, his idea was, that at the present time he should have had to propose an adjournment to some time between the 5th and 10th of November, and to accompany his motion with an order that the House be called over on that day, as he had thought it probable that by that time the bill would have come down, or been rejected. It did not now seem to him that there was the same prospect of an early decision, and he should therefore propose an adjournment to Thursday, the 23rd of November, and should move that the House be called over on that day, giving notice that in the event of the bill being by that time in a state to be brought down from the other House, he should enforce the call, but that if the bill was still pending there, or was rejected, the call would be suspended, or abandoned accordingly.

Sir *G. Noel* said, he had before compared the House to a pack of hounds, who were whipped in or out by the noble lord as by the hunter. So, it seemed, he still resolved to treat them. He objected to so long an adjournment. They should continue to meet, to attend to the affairs of the nation at this critical period. He would move, as an amendment, that the House, onits rising, adjourn to to-morrow.

Mr. *P. Moore* seconded the motion.

Mr. *Tierney* said, he quite agreed with the hon. baronet, that the adjournment proposed was very much too long, but he was not prepared to support the amendment for an adjournment only till to-morrow. It was very extraordinary that now, after the trial had proceeded so far, a proposal should be made to them for a longer adjournment than was proposed at the very commencement. The noble lord knew better than he did, what was going on; but when he saw that there had been printed nearly 900 pages of evidence, he thought he was not hasty in concluding, that the proceedings were advancing towards their termination. Yet the noble lord had now proposed an adjournment longer than on any former occasion. He had thought, on a former occasion, that time should be allowed to see what the Lords would do, not understanding that he was to be at all bound by their proceedings. But the present motion made them quite subservient to the proceedings of the Lords. As a spectator of their proceedings, he imagined, that they would close in a week. If there was a possibility of that kind, why should they adjourn for so long a period? If the noble lord could inform the House that the bill of Pains and Penalties would never be heard of more in this place, then he was ready to adjourn, not merely to the 23rd of November, but to the 23rd of January. The noble lord had said, that if the bill were thrown out by the Peers, the order for the call need not be enforced; but surely, even in that event, there would remain many matters to be discussed of a most serious character. The noble lord must forgive him for saying, that in the public mind there existed a general indignation against ministers for the pass to which they had brought the country. It would be no adequate satisfaction to the nation to be told hereafter,

that the Lords, in the exercise of their discretion, had thrown out the bill—that the nuisance had been got rid of, and that no man was now responsible for the condition to which the kingdom was reduced. He asserted, that ministers were deeply responsible—that nothing could or ought to screen them, not only from mere indignation, but from public punishment, if they failed in making out a clear, unequivocal case against her majesty, such as no man could doubt. If their case fell short of that, they had trifled with the public. On a former occasion he had said, that ministers must either betray the King or insult the Queen; but if they did not succeed in this desperate project, they would do both. One important question must arise respecting the body in which the whole case had originated—the Milan Commission—the conduct of which, at all events, must one day be investigated. He knew that ministers, by a side-wind, had endeavoured to inculcate a belief, that the Milan commission was totally independent of the King's servants—that it arose from another quarter. He did not believe it, and the less, on account of the dexterity they displayed in trying to shift the weight from their own shoulders. Its appointment had been, to all intents and purposes, the act of the government; and for its acts government was most deeply responsible. All he asked was, such a reasonable adjournment as should put the House in a situation not to lose time in investigating the subject; a fortnight from the present day seemed to him ample time; for, be it recollected, that independent of the Queen's trial, a great deal of public business remained to be performed. The last session, in consequence of the threatened inquiry, had been a mere blank as applied to public business. And were members to shut their eyes to all the exigencies of the public service because it seemed good to the noble lord and his friends? It might be very inconvenient to the right hon. gentlemen on the other side that the House of Commons should be sitting while particular transactions were in a course of investigation elsewhere; but was this to be set against the inconvenience the public must sustain? The assembling of the House a fortnight or three weeks hence might be a great advantage, even if it were unaccompanied by a call. The call might be fixed for the 23rd of November, but he would support an amendment, that the adjournment be only for a fortnight. If it were otherwise, the House of Commons would stand before the country as almost the only body of men totally indifferent to the progress of the measure in the House of Lords, and adjourning to a distant day merely on the suspicion of the noble lord, that the further the Peers proceeded with the bill before them, the further they were from the end of their labours.

Lord *Castlereagh* thanked the right hon. gentleman for the candour with which he had met the question. He would as fairly state the grounds upon which he differed with him. The calculation he had made was founded on nearly the same *data* as that of the right hon. gentleman. He was perfectly ready to admit, whatever might be the issue of the bill, that a great variety of questions might arise out of it requiring the serious attention of parliament; but he knew of no instance where a great public topic was ever passed over for want of a favourable opportunity of discussing it in either House. The right hon. gentleman would probably allow, that those questions, be they what they might, collateral or immediate, ought not to be introduced but with such an attendance of members as should give to the House all the gravity belonging to it. It was quite correct, to state, that he now proposed a longer adjournment than in an earlier stage of the proceeding; but for this obvious reason—that before he had looked simply at an adjournment, and now he combined with it the question of a call. He could not well give less than a fortnight or three weeks to the course of the case, as it was at present circumstanced in the House of Lords. He did not foresee, that in less than that time the Peers could have brought their proceedings to a close, allowing them a week or ten days for the evidence, and the remainder for the discussion of the different stages of the bill. Upon this point there could be no difference of opinion—that it was desirable to discuss the measure in a fuller House than would probably be obtained if merely a question of adjournment were expected. In naming the 23rd of November, he had selected a period which, after the supposed close of the business elsewhere, would give members at a distance due notice of the period when their presence would be required. Any intermediate adjournment would only give unnecessary trouble, es-

pecially if that adjournment were unconnected with a call. Upon the whole, it appeared to his lordship, that by far the more convenient arrangement was that which he had suggested.

Mr. *Tierney* said, that even if the proceedings in the House of Lords were not to close sooner than three weeks, the utmost inconvenience that would occur to members, would be, in case the House now adjourned over for a fortnight, that they might possibly be detained in town for three or four days before any particular business would be entered on; but, on the other hand, if they were to adjourn to the 23rd of November, they would be exposed to much inconvenience, and her majesty to much injury. He could not comprehend any inconvenience, if the House were to adjourn to that day three weeks, to be then peremptorily called over; to adjourn for five weeks, would be to do that for which no fair reason had been assigned.

Sir *W. De Crespigny* had no objection to the adjournment proposed, and trusted, that the reason for so long a separation was, a belief, on the part of ministers, that they would be enabled to get rid of a bill *in toto*, which had excited so much disgust throughout the nation.

Mr. *Creevey* trusted, that his right hon. friend would forgive him for saying that he had met this question in rather a strange way. He little expected that he would have talked of the private convenience of members, instead of meeting the subject with some expression, on the part of the House, of an opinion that it never would permit the bill of Pains and Penalties to enter its doors. It was a most strange consideration, and at the same time a most melancholy one, that the House of Commons, that House which ought to be the guardians of the laws and the defenders of public liberty, were the only body in the nation who appeared insensible to the alarming consequences of this bill. He would ask them to look to the petition presented that night from Plymouth. From the language of that petition, the parliament might learn what was due to the laws and constitution of England from the common inhabitants of the sea-port town of Plymouth. On a former occasion, it was stated in that House, that if the bill should be ever attempted to be brought before them, the best way of proceeding would have been, to move an address to his majesty to prorogue the parliament, and so get rid of the bill. There was only one thing which had since occurred to render it improper to address the throne. In the present progress of the trial, if trial it might be called—for the last two days it was certainly not the trial of the Queen, it was more a trial for conspiracy on the part of the government of this country—in this extraordinary state of the proceeding, he thought that they ought not to address the throne. The right hon. gentleman opposite (Mr. Wellesley Pole) seemed to smile with much self-complacency. He did not envy the composure which the right hon. gentleman affected. Had the right hon. gentleman attended the progress of the bill before the House of Lords? Had he attended to the evidence which had been given at the bar of that House? Did he understand the questions which had been referred to the Judges? Had he observed the arts that had been resorted to, and the technical questions which had been raised, to get rid of important disclosures? The right hon. gentleman certainly was at liberty to smile; but he might not perhaps have much cause to smile before the bill should be got rid of. This subject, important as it was, should not have been left to him. He regretted that it was not taken up by other hands: he regretted that the heads of the independent interest did not advocate the case. But however others might act, he would fearlessly perform his duty—a duty he owed not less to the liberties of his country, than to the insulted rights of human nature. The bill, not merely as it affected the Queen, but as it affected the nation, was a bill of a most infamous nature. Bills of pains and penalties were abhorrent to the constitution. In former times, bills of pains and penalties were only resorted to in cases of extreme necessity, in times of party conflict, and when the peace of the country was threatened by a rival claimant to the throne. In later times, the country had been disgraced by proceedings of that nature in the memorable cases of bishop Atterbury, sir John Fenwick, and lord Strafford; but in the present case, they had a bill of Pains and Penalties where there was no public conflict, no treason; where there was no one to oppose or to put down but a woman, whose life had been a life of hardship and of suffering. That a bill of that kind should have but

few advocates, was natural in a country where the principles of liberty and of humanity were cherished. He believed in his heart, that there was but one human being in England who was for the bill. In other cases high treason had been alleged; but here adultery, or rather an adulterous intercourse, was charged. Adultery was not a crime known to the law of England; it was held to be a civil injury, for which reparation might be obtained, under certain circumstances. By the law of the land they could not prosecute the Queen or any other individual for adultery. It was not more than twenty years ago since a bill was brought in to make adultery a legal crime; but the legislature rejected the bill; and yet they now attempted to punish the Queen, on the imputation of an act which they had so recently refused to constitute a crime. He did not say, that the Queen was guilty—he believed her not to be guilty; but whether guilty or innocent, he never would entertain such a bill—he never would be a party to so odious a proceeding. He would say, as lord Digby had said in the case of lord Strafford, "God keep me from giving judgment of death on any man, and of ruin to his innocent posterity upon a law made *à posteriori*;" adding, what he was ready to add on the present occasion, "let the mark be set on the door where the plague is, and then let him that will enter, die."* What he felt on this subject was felt by all; one sentiment pervaded all classes and all ages. As far as the bill had gone, it was impossible not to look at it, not only with abhorrence, but with absolute contempt. The House and the country recollected the manner in which the charges against her majesty had been brought forward. It would, indeed, be difficult to forget that odious part of this odious proceeding. The individual conduct of her majesty was held up to the horror of the world. She was charged with having carried on an adulterous intercourse in no fewer than three parts of the globe, and that atrocious allegation was attempted to be upheld by wretched and perjured evidence. But now what did the charge amount to? All the imputations so foully and so falsely cast upon the Queen had been exposed—had been triumphantly refuted—and the only excuse that remained to the supporters of the bill was, the fact of her majesty having reposed on the deck of a vessel, in the presence, it was said, of her attendant. This was really a thing of no moment—it ought not to have a feather's weight—it was easily explained [a laugh from the Ministerial side, and loud cheers from the Opposition]. So help him God, he thought the Queen as innocent of crime in this particular, and in all others, as the most spotless female the world had ever produced. He did not believe that there was one word of truth in all that the miserable Italians had been bribed and persuaded to swear. The next allegation, on account of which all England had been put in motion, was, that the conduct of the Queen had degraded the character of the country—that the morals of the nation were at stake—and a fastidious court—so pure in itself, and so anxious for the purity of all the rest of mankind—wished to drag the British parliament through the dirt and filth of this inquiry—to divorce and degrade the Queen—under the pretence that the national honour had been tainted and sullied by her deportment! Most fortunately for that national honour, not a single English witness had been called who did not swear that, so far from degrading the country, they had never seen in her conduct any thing in the slightest degree indecorous. But the fastidious court—the delicate and scrupulous court—the pure unblemished court—had found one ally, one poor solitary witness, who had sworn, that the refinement of his moral sense was such, that he had been induced to withdraw his innocent nephew from the contagious sight of the Queen of Great Britain. He hoped that her majesty, who had evinced some little courage in facing and daring her enemies, would have sufficient fortitude left, to bear up against the shock of this dreadful imputation, from a person at once so antediluvian in his morals, and so disinterested in his testimony [Hear, hear!]. A third point contained in the preamble was, that the Queen had violated her duty to the King. But what duty did she owe to one, who, under his own hand, had confessed that he had turned her out of doors? That she owed allegiance to the King as his subject was not to be disputed; but that she owed duty to the King, he most strenuously denied; nor would he be any party to try her for a supposed breach of it.

* See New Parliamentary History, Vol. 2, p. 753.

Yet this House was to be driven into the inquiry; but, without power to administer an oath—without Judges to assist it in point of law—with the public opinion, on the score of corruption and influence, most decidedly against it, he hoped it would never consent that in such an assembly the Queen should be put upon her trial. For himself, he felt a perfect horror at the bare notion of it; nor was his shame less that, while such a topic was presented, the private convenience of the members had that night been the only subject of discussion.

Mr. *Tierney* said, that he felt as warmly as any man, the constitutional objections to bills of pains and penalties. The principal difference between him and his hon. friend who spoke last being, that he (Mr. T.) was able in some degree to restrain and keep down his feelings. Yet he knew nothing of the evidence as a member of parliament; but he could not approve of the summary mode in which it had been proposed to get rid of it by a prorogation of parliament. Had he been in the House when it was moved, he should have voted against it. He begged clearly to be understood that it was not because he did not express his opinion at present that he was to be supposed to feel less warmly than others upon this subject.

Mr. *Scarlett* begged pardon of the House for rising at the present moment; but, after the call which had been made by his hon. friend, he deemed it incumbent upon every man to declare his unbiassed sentiments. He would not enter into a discussion upon the merits of the evidence; but he begged to state, that he, for one, would never, upon any public grounds yet promulgated, give his consent to this bill of Pains and Penalties. With respect to the measure before the House, it was so far connected with the proceedings in the House of Lords, as to entitle him to observe somewhat on those proceedings. They had before them a report, stating, that certain questions had been put to the learned Judges. Until he had heard that report read, he was altogether ignorant of its import. The import of those questions, if he understood them rightly, was, whether the House of Lords were entitled to inquire whether any undue and improper means had been employed to collect evidence against her majesty? He could only say, that if he had been of counsel for the prosecution against the meanest subject in the realm, and had been told, that the defendant possessed the power of proving, that some of the testimony against him, had been obtained by corrupt practices, though he could not perhaps bring it home directly to the prosecutor, he should think that he did no honour to his client, if he interposed an objection to its production. He would feel that such an objection on his part would be an attempt to interrupt the clear current of justice—he would feel that he was disgracing the prosecutor, and betraying the trust reposed in him, if he were, on such a point, to object to any form of inquiry, however ample, or however strict [Cheers]. If such would be, as they certainly would be, his sentiments on a case of a private nature, how much more strongly should he feel in a case where the government stood as the prosecutor, and where the prosecution was conducted, before one branch of the legislature, and by the public officers of the Crown! If the bill of Pains and Penalties ever reached that House, he should consider it as a disgrace if it was entertained for a moment; and he would say, that if the promoters of that bill had intended to bring into contempt all those institutions which had hitherto been held most sacred and most dear, they could not have done it more effectually, than by the measure which they had resorted to. God forbid, that he should say that any particular individuals entertained those views—it would not be parliamentary to say so; but he would repeat it, if they had formed a criminal design to bring this once happy country to the brink of destruction, to bring into contempt institutions that had been hitherto respected, they could not have taken a better mode to accomplish their object. Who could doubt now, that the question was between the Queen of England on the one side, and his majesty's ministers on the other? He, for one, never approved of the introduction of the sacred name of the King in the discussions upon this business. He could never bear to hear the name of majesty used with this irreverence. This measure must not be called the measure of the King. Against such language he must raise his loudest protest: it was, like all other public acts, the measure of ministers, and as such it must be judged. Before he concluded, he begged to enter his protest against the conduct of those who urged technical objections, in order to exclude inquiry into that most vital

point, namely, whether undue influence had been exerted, and bribes offered to witnesses, to swear against her majesty. He hoped that such objections would never be tolerated. The House of Lords were not bound to listen to an objection which went to say, that the accused shall not have the liberty of inquiring into the character of the witnesses against her; she shall not have the liberty of asking whether those witnesses were bribed to swear against her. The proceeding before the House of Lords, was less a judicial than a legislative proceeding; and their lordships unquestionably had the right, without being shackled for a moment by the objections of counsel, to enter into a minute inquiry as to the conduct and motives of the witnesses—a proceeding which justice required, and which the country expected. He was not insensible, he participated fully in that general and universal feeling which pervaded the country on this subject. Never was the country more agitated than at the present moment, and never was the conduct of the people more honourable to the character of the nation.

Mr. *W. Courtenay* said, he felt as much impressed as any man with the impropriety of being drawn into any discussion upon this subject at this premature period; but he could not in silence hear one set of gentlemen arrogate to themselves all purity of principle, and deny it to those with whom they differed upon political topics. Let them pause, and see whether, in the case in which they were involved, there were any ground for all this reprobation so unsparingly heaped upon their course. What was the course of that proceeding? Reports of a most degrading nature respecting the princess of Wales [A laugh]. If gentlemen who opposed his views refused to listen to any thing at variance with their own preconceived opinions, then there was an end to all freedom, or, indeed, utility of debate. [Hear, hear!] Reports of a most degrading nature respecting the conduct of the princess of Wales had reached this country; and, putting out of view all the statements of Italian witnesses, it was said, that an English lady of high rank and character, had been obliged to withdraw herself out of the Queen's society in Italy. These statements called for inquiry, and the step taken was the natural and proper one. A commission—that much abused commission—was sent out in consequence. Steps were taken by it to investigate the truth of these reports. Persons had been sent out intrusted with this commission, and he wished particularly to mention one of them, Mr. Cooke, whose name had been the subject of abuse as unfounded as it was ever undeserved by any man. Mr. Cooke, who was the object of abuse so liberally bestowed on him, had the superintendance of these inquiries. If ministers had any sinister object to pursue by this inquiry, as had been insinuated, was it likely they would have selected as their agent a gentleman who could never be made a subservient tool, whose situation placed him above all suspicion—a man who had long been engaged in the active pursuits of a profession, from the duties of which he was recently compelled by ill health to retire? Mr. Cooke had nothing to gain by being the tool of any set of men: his competent means rendered him superior to such an imputation. Mr. Cooke had passed his life in the same profession as one of the hon. gentlemen who had been foremost in abuse, and had not hesitated to make him the object of his unbridled invective (Mr. Creevey) had originally embarked, until he quitted it for the more seducing field of politics: and he would now say, that that gentleman might be well contented to barter such fame as had followed his political career, for the unsullied purity and high reputation of Mr. Cooke's professional life. The real question was, did the circumstances justify ministers in recommending this inquiry. One gentleman (Mr. Creevey) had taken much pains to state, in the course of his argument, that adultery was no crime by the law of the land, and that such offence, if proved, was no ground for any proceedings against the Queen. Was this a course of argument which would be adopted by the country? Would the sober and honest feeling of the people really go along with the hon. gentleman, in concluding that it was of no consequence whether the Queen of England was or was not justly accused by report, of adultery, because it was not a crime punishable by law? Would there have been no impropriety in permitting a person to remain queen-consort of this realm, to whose court their wives and daughters were to be introduced, if she remained the object of so much degrading insinuation? But it was said, that technical obstacles should not have been interposed before that tribunal. Gracious God! what a

mode of reasoning was that! Were the Lords immediately to adopt any course prescribed upon every vague insinuation, however groundless—upon every rumour, however unsupported? Surely that was too much to expect from any tribunal. It was said that the Italian witnesses were suborned, were perjured. If this observation were true, it must be taken in a general sense; and he believed there were some of those who did not hesitate to make the insinuation for partial purposes, who would shrink from admitting its general application. He was also one of those who could not suffer it to be nightly re-echoed by the gentlemen opposite, that the universal sense of the country was consonant to their view of this grave and serious subject [Loud cries of Hear! from the Opposition-benches]. Notwithstanding that cheer, he would repeat his assertion, that the tide of popular feeling was on the turn, and that the people were coming to a more sober and rational view of the subject. The result of the pending investigation he should not anticipate; but, be it what it might, he was satisfied, that the people of the country would eventually feel that the investigation itself was unavoidable, and necessary for the honour and dignity of the nation.

Mr. *Calcraft* said, that he had meant to have complimented the hon. and learned gentleman, on the bold and manly course he had set out with taking, in defiance of popular feeling; but he found, in the progress of the hon. and learned gentleman's speech, that he must abandon this intention; for it seemed that, so far from having this boldness, he had happily and judiciously selected the favourable moment when he was to have the tide of popular feeling with him. For his own part, he must say, that, in the discharge of his public duty, he did not presume to know on which side of a question the tide of popular feeling ran. He always felt it to be his duty to take the course which his own judgment and sense of principle suggested, as becoming a representative of the people in parliament. But if he were to judge of the current of popular feeling on the question now in agitation, he should say that, so far from the tide being about to turn in favour of the opinion of the hon. and learned gentlemen opposite, the universal feeling was decidedly hostile to the pending investigation, and more particularly at the present time; and that, so far from thinking it either proper or necessary, the people looked upon it as a violation of the best institutions of the country, as an outrage upon the laws of the land, and felt that the House of Lords had embarked in a course in which they could derive no aid from either human or divine law. The public feeling upon this occasion, was, indeed, as it in general would be found when fairly collected, honourable to the morals and character of the middling and humbler classes, from whom it emanated. They looked at the situation of their Queen with a right feeling; they bore in mind that when she was cast loose upon the world, without guide or protector, she had the permission and assurance, as far as it could be given (though he knew that any such permission was nugatory), that no advantage would be taken of her conduct, as in the case of an ordinary woman [Cries of No, from the Ministerial benches]. He repeated, that she had received such an assurance that her conduct would not be looked at, as if she stood in the ordinary relations of a female in private life. Those who, after giving such an assurance, could collect together and act upon reports, be they what they might, could, he thought, derive little consolation from reflection. That commission (the Milan) would for ever remain a blot in the annals of the country. It was not the best advice a minister could give his sovereign, after such a communication had been made to a lady, to beset her with systematic watchfulness, even if it could be done by less censurable means than those which had been resorted to. Was it decent, was it manly, to pry into, to watch, to sift the domestic concerns of a deserted and disconsolate woman; and then afterwards to arrange and embody evidence so procured into a grave and formal charge, to be legislated upon in a tribunal in a form and manner which, he repeated, could derive no sanction from any human or divine law? Whoever advised the monarch to embark in such an inquiry did an injury to that monarchy, which, if he revered, he must for ever lament the longest day he lived. Never was the public sense so generally and unequivocally manifested as upon this occasion. It was impossible to observe it without admiring the general character of the people. He had, during the adjournments, week after week, refrained from expressing any opinion upon the case now under inquiry. The ultimate issue of

guilt or innocence would have no weight with him, feeling, as he did, the most invincible repugnance to entertaining such a question—a question which nothing upon earth could for one moment induce him to entertain. A good reason truly, that because the Lords had adopted a course which the House of Commons rejected, that therefore the House of Commons should desert its sense of duty, and adopt theirs! Far different was the conclusion which he should recommend. The House of Commons should take credit to itself for anticipating those objections with which both Houses at that moment felt themselves embarrassed. The noble lord opposite complained of an attempt to degrade the House of Lords. Let the noble lord reflect on the course he was now pursuing. The House of Lords was the last court of appeal in this country. Its functions that House had ever discharged with unsuspected credit, and great reputation. Assisted by the co-operation of the lord chancellor, and the presence of the Judges, they were peculiarly competent to discharge the trust with all its befitting solemnities. Now, however, by the bill of Pains and Penalties originating there, the House of Commons was converted into a court of appeal, without any one of those solemnities—without the power of administering an oath—without the presence of the judges, to whom, on any legal difficulty, they could apply for their opinions. Six hundred and fifty-eight gentlemen were to sit to try the Queen (a mockery of trial) without one of those advantages which the House, whose proceedings they had to review, possessed. We were to have, in addition, the five gentlemen who conducted the prosecution and defence, also transformed into judges, and their puppets, or subordinates (he spoke the words without offence), conducting the cause at that bar. The noble lord talked of upholding the institutions of the country, and in the same breath recommended a proceeding which made the House of Commons a court of appeal from the House of Lords. He talked of guarding the two Houses of Parliament from imputation, and still so inverted the course of justice, as to convert the paid advocates of the parties into dernier judges on the decision of the House of Peers. Was that the way to try the Queen of England? Nothing, he was confident, induced ministers to take that unnecessary and unconstitutional course, but the affection they bore, not to the institutions of the country, but to their places. It was considered by them altogether as a question of office; and what a sorry policy! If the noble lord and his colleagues had had the boldness to lose sight of their emoluments even for the shortest period—had they on such manly grounds surrendered office, who would have dared to become their successors? In his conscience he believed the whole mischief had arisen from the ambition of one man in this country, who calculated on being a chancellor, and of another, a chancellor, who wished to retain his office. It was our misfortune to have a vice-chancellor, who wanted to be promoted, and at the same time a lord chancellor who was determined not to retire till he had completed his million [Hear, hear!]. He said this in no disparagement of that noble and learned character. No man more respected his private qualities; he was fully sensible of them, enjoying, as he did, the happiness of having him as his nearest neighbour. He was, indeed, a most excellent sporting country gentleman [A laugh]; but speaking of him as a politician, he had been instrumental in producing as much public mischief as any man he ever knew. He (Mr. Calcraft) was one of those politicians who, in general, looked to the bright side of the question; and he felt a firm assurance that the country would, by its own strength and character, surmount its present embarrassment, but he also felt, that if the King's ministers had manifested but the courage to render justice to that country, all the present confusion and irritation of feeling would have been spared. With all their calculations they were, he knew, taken in. They proceeded from the beginning under the impression that the Queen never would come to England—"She will never come," was their hope and their conviction. She did, however, approach so near as to create alarm, and their famed negotiation at St. Omer's was the result. Still, though so near, "she will never come," was the impression; till at last some unlucky colleague was so indiscreet as to give, in some quarter, an undertaking that if she did come she would be proceeded against. The noble lord opposite knew well that was the fact.—He did not expect to extract confession from him; but if he could construe his smiling into an admission, he felt convinced that he was right. For, recollect how happy the noble lord was, to

be stopped from that proceeding by the resolution of the House of Commons—a resolution which he (Mr. Calcraft) most sincerely supported, and whose failure he, with equal earnestness, regretted. That effort having unhappily failed, the next object was, to address themselves to that more ductile body, who were supposed always to look more favourably to the Crown, even than that unreformed House of Commons, whose inclinations even that way he was as disposed as much as any man to check. At the beck of the House of Lords were the Commons of England to be kept meeting and adjourning from week to week and day to day. What was the meaning of all these adjournments? And why, he would ask, now that the proceedings must, in the House of Lords, be approaching their termination, was the protracted adjournment for five weeks proposed? The noble lord opposite could, if he pleased, give the answer—he well knew the bill of Pains and Penalties would never reach the House of Commons. It was because he was prepared for this result, that he asked for that long adjournment. The noble lord speculated on the effect of time—on the probability that the public irritation would diminish—that people's minds, cheered by the result, would grow quiet, and that by postponing the time for that House again meeting, the discomfiture of the ministers would not be met by that excitement, which it would probably experience, were that House assembled when such discomfiture was first ascertained. In making these observations he indulged no wish at that moment to comment on the character of the Milan commission. Of one of its leading members, he should only say, that it was a subject of regret that he (Mr. Cooke) should undertake an office, so incompatible with his character and prospects of promotion. At the proper period he should not shrink from stating his opinion on its acts as a commission. As to the bill itself, he did believe it would never reach them, but should it offer itself at their doors, he should do every thing in his power to keep it out of that House. Entertaining these feelings, he should have regretted, that the present debate had gone off with the tone that marked its commencement, as such a silence would have afforded a melancholy illustration of the little effect of public opinion on that assembly, and how very imperfectly the people of England were represented in that House.

The *Chancellor of the Exchequer* rose for the purpose of recalling the attention of the House to the subject actually before it, which was nothing more nor less than what was the proper period to which they should adjourn. He hoped he might be allowed to do justice to one of his colleagues who had been attacked by the hon. gentleman opposite; and he would appeal to the knowledge of every person, whether his noble and learned colleague had ever been swayed by any private or improper motive, and whether the most unimpeachable integrity had not regulated his conduct for a period of forty years. The question upon which they had now to decide was, whether it was consistent with their duty, and consistent with justice, that they should now take a short adjournment, or extend it to a period of five weeks. The hon. gentleman opposite had stated, that he did not apprehend that the proceedings would be closed in a shorter period than three weeks. It was expedient therefore to decide, whether it was better to adjourn to that period by which it was calculated the proceedings might be finished, or by extending the period of adjournment a little further, to make themselves almost certain, that when they next met they should meet with a reasonable probability of proceeding at once to the consideration of the subject. He apprehended that the interests of the public would be best consulted by adopting the proposition of his noble friend, and he felt certain, that if it should fall to their lot to take into consideration the question now occupying the other House of parliament, that they would do it with the same impartiality, and to the satisfaction of the public.

Mr. *Calcraft*, in explanation, denied, that he had said a word in disparagement of the integrity of the noble and learned lord alluded to. As a Judge he believed him honest to the back-bone.

Lord *Folkestone* said, he was one of those who did not wish to confine the question to the mere motion of adjournment, and keep the merits of the great question wholly out of sight. Such might be the policy of the noble lord, who had left that consideration wholly out of his view; indeed, it was to be judged of, from the manner in which the speech of the only honourable gentleman who ventured to open his mouth on the subject was received. He thanked his hon. friend (Mr. Creevey) for the tone he had as-

sumed in the discussion, strongly expressive as it was of that abhorrence at the proceeding which was felt so universally out of doors, and which he fancied ministers would find was strongly felt in that House. As nothing had been said in answer to that speech, he should limit himself to saying, that in every objection urged against the bill he fully concurred, and that at the proper time he would be ready to resist its introduction into that House. The hon. and learned gentleman who was that night the only advocate of the bill of Pains and Penalties, had undertaken to prove, that it was the only measure that could, under such circumstances, be adopted, and that the Milan commission was a necessary preliminary, in consequence of the reports injurious to her majesty, that prevailed throughout the continent. Putting aside the consideration, that these reports originated in a conspiracy, he (lord F.) contended, that the only fair proceeding that could be adopted, was directly the reverse of the Milan commission. For what was the consequence of the Milan commission, and of the means taken to inquire into those reports? The consequence was, not to prevent the mischief, not to punish the crime, not to remove the disgrace, but to invite false testimony, and to publish our shame to the whole of Europe. This was the plan adopted to protect the honour of the Crown, to secure the reputation of the country, and to do justice to the honour of the Queen! And, as if to render all the machinery necessary, the Queen was advised, through the medium of a right hon. gentleman who acted for ministers, to leave the country. [No, no]. He repeated, that her majesty was advised to leave the country by a right hon. gentleman who had since delivered his sentiments of respect towards her in that House—a gentleman who, from those sentiments, might have been supposed one of her majesty's defenders—a gentleman who was not now here, and who had gone from his duty God knew where. That minister had removed himself from the opportunity either of defending or of abusing her; but his colleagues were responsible for ever having allowed the wife of the heir-apparent of the throne to quit England. But having sent her away, they became doubly responsible in not calling her back, when they heard the degrading reports that were circulated throughout Europe against her. Instead of that course, they issued their Milan commission, to give an increased publicity to these calumnies, and to give a validity and extent to that degradation to which the throne of England was exposed. As if any thing were still wanting to complete the disgraceful spectacle, she was offered 50,000*l.* a year, in order to enable her, if those aspersions were justified, to still further degrade the dignity and honour of the British Crown. It was now at length formally announced, that the ministers of the Crown were the parties in support of the bill of Pains and Penalties. After that tardy avowal, it was not too much to expect, that the noble lord opposite would have favoured that House with his opinions on the probable result, without at once calling upon it to dance attendance on the Lords from week to week. Surely the noble lord might have informed them whether it was likely the bill would come at all to that House, or in what shape, or whether it would be altered. From all that desirable information the noble lord had abstained, and limited himself merely to the proposition of an adjournment for five weeks, making the call of the House to depend on the decision of the House of Lords against her majesty. One would have thought, that whatever might be the nature of that decision, whether it announced the guilt or innocence of the Queen, that call would have been enforced. The noble lord, it would be recollected, had, on a former occasion, declared, that if these proceedings were the result of a conspiracy against the Queen, no man would be more active or zealous to investigate that conspiracy than he would be. Then why should not the call of the House take place in that event, as well as on a decision unfavourable to her majesty? For his part, he contended, that the call should then be enforced, in order that the fullest inquiry might take place as to the time and place where this villainy was concocted, and to scrutinize the conduct of those ministers who had so unadvisedly thrown the whole kingdom into a state of irritation, and our best interests into jeopardy. If the noble lord would not redeem his pledge, he trusted others would be found determined to discharge that duty; and to give effect to that opinion, which, if not within that House, prevailed so universally on the other side of those walls, in execration of the course they were now pursuing.

Mr. *Wellesley Pole* said, he should not

have uttered a word, if it were not for the line of argument taken up by the hon. gentlemen opposite; but when he considered the opinions which they had given, that whether the Queen was or was not guilty of the charges, was a matter of indifference.—[No, no! we spoke of the mode of proceeding, from the opposite benches]. He misunderstood them, then, because he took them to have said, that whether the Queen was or was not guilty, they would equally feel it their duty to oppose the bill. He thought the House should proceed in the course proposed by the noble lord, because he thought the time had not yet arrived when the House must give an opinion on the subject; and he had always felt, that the proper time for investigation would be when the bill should come down from the Lords; he felt that a time would arrive when his majesty's ministers must answer for their conduct, and he had, until that time should come, determined to abstain from offering any opinion. An hon. member opposite had said, that, with the exception of one hon. and learned gentleman no one had attempted to defend the course of proceeding adopted by ministers; but he would tell that hon. member, that when the time should come, the members of the administration would be as ready and as bold in defending their proceedings, as the gentlemen opposite were in pronouncing their opinion, and in attempting to vilify the conduct of administration. As the question now stood, he did not see that they ought on the one hand to go into the merits of the case, or on the other hand, endeavour, by provoking discussion, to inflame the public mind and to vilify the conduct of ministers. He would say boldly, that his majesty's ministers would not have acted as honest Englishmen, or as honest ministers of the Crown, by recommending any course different from the present. He stated this boldly, and he challenged any man to deny that his hon. and noble friends whom he had the honour to call his colleagues possessed as strong an attachment to the Crown and the country, as any men. It was easy for gentlemen on the other side to assert without proof, and to treat ministers as persons unworthy of the confidence of the country; and he was not surprised at hearing one of them say, that a person whom he had but a minute before described as the vilest creature, was an honest judge to the back-bone. That gentleman had forgotten that he had said, there existed one chancellor, who would sooner destroy the country than give up his office; and that gentleman's memory might be equally deficient, when he made assertions respecting other gentlemen, similar to those which he had made respecting lord Eldon, who, if he possessed such feelings as those imputed to him, was a wretch whom no honest man ought to sit in the same room with. He thought persons in high rank and in high stations, were as likely to possess as nice feelings and as nice a sense of honour as the hon. member opposite. The hon. gentleman had rather ludicrously described the House of Commons as a court of appeal from the House of Lords; but if the House were placed in such a situation, what were all the bills of divorce which came down from the other House? Was this the first time that a bill of divorce came down to the House of Commons, after the House of Lords had passed an opinion upon it? He stated this, because these gentlemen, forgetting constitutional principles, treated as a novelty that which was the known and regular course of proceeding. He begged leave to say, that he offered no opinion upon the merits of the bill, until the question should be brought regularly before them, because he thought such an opinion would be unwarrantable and indecent, before the result of the proceedings in the House of Lords was known. He agreed with the noble lord who had proposed the adjournment, that by voting for it no hon. member would be pledged to the merits of the bill.

Mr. *Hobhouse* said:—Sir; my sentiments having been so frequently declared on the subject, I should not now trouble the House, were it not for an observation which fell from the right hon. gentleman who has just sat down. That gentleman seems to think it exceedingly absurd and inconsistent, that the hon. member below me should describe the lord chancellor as being a respectable judge, although he cannot approve of him as a statesman. This criticism was so much applauded by the gentlemen opposite, that I rise to remind them, that there is nothing anomalous whatever in such a character, and that to consider such an inconsistency as unnatural, shows a most lamentable ignorance of human nature. Many names might be mentioned of judges, who, in causes between private individuals, have observed a strict impartiality, but have been notoriously profli-

gate on all political questions. What is it that Dryden tells us of the man whom he describes as the wickedest, the most factious, and good for nothing statesman that ever lived? The House will recollect the lines which end thus:

"In Israel's court ne'er sat an Abdethin
"With more discerning eyes or hands more clean.

And yet the hon. gentlemen cheered the notable discovery respecting the inconsistency of the two characters—as if such a poet as Dryden, and such a politician as Shaftesbury had never lived. Sir, I repeat, this shows a gross ignorance of human nature and of the history of many political judges who have sat upon the English bench.—I should now sit down, were it not that I wish to ask the noble secretary of state for foreign affairs a question.—The prime minister gave his promise to the other House of Parliament, that the witnesses who deposed against the Queen, should be forthcoming, at least during the trial. It seems, however, that the same minister when he gave the assurance, forgot to issue his directions to the only office through which it was possible that any of those witnesses could obtain the means of evasion. Accordingly, one witness has through that office been furnished with the means of leaving this country. It is almost useless to observe what kind of justice is dealt out to the Queen by this act of government. Here we have the Admiralty records ransacked in order to contradict the assertion of Carrington, a witness for the Queen, who is again placed at the bar, in order to be confuted by those records. And when the Queen's counsel wish to confront one of the witnesses against her majesty with a witness for the Queen, it is at once discovered, that, in spite of all the solemn assurances of the prime minister, the said witness has left the country. The mischief to the Queen may be irreparable, but I, at least, wish to know whether the noble lord opposite will give his honour that no other witness shall receive passports at his office. Nor am I contented with hearing it said by the prime minister in the other House, that the witness shall be forthcoming during the trial. No; it is necessary they should be detained long enough to give a reasonable time for prosecuting them for perjury, if perjury they have committed. which, in one case, I may say, I know has been done. Not that I have any anxiety for her majesty. The trial, as it now proceeds, is, as has been well observed, not the trial of the Queen, but the trial of the Queen's prosecutors. Unless I am much mistaken the time is not far distant when those prosecutors will be called to answer for their conduct, not at the bar of this House, but at the bar of the nation, and God send them a good deliverance!

The Amendment was withdrawn. The main question was then agreed to, and the House adjourned to the 23rd of November.

HOUSE OF LORDS.

Wednesday, October 18.

The order of the day being read for the further consideration and second readiug of the Bill, intituled "An Act to deprive "Her Majesty Caroline Amelia Elizabeth "of the Title, Prerogatives, Rights, Pri-"vileges, and Exemptions of Queen Con-"sort of this Realm, and to dissolve the "Marriage between His Majesty and the "said Caroline Amelia Elizabeth;" and for hearing Counsel for and against the same;

The Counsel were accordingly called in.

Then Lord Chief Justice *Abbott* stated, that the learned Judges had conferred upon the questions referred to them by their lordships, but that some doubt being entertained as to the point intended to be proposed by the third Question, he took the liberty of suggesting whether their lordships would be pleased to give some explanation of that question.

Then, by leave of the House, the said Question was withdrawn; and the following Question was proposed for the consideration of the Judges:

"Supposing that, according to the rules of law, evidence of a conspiracy against a defendant for any indictable offence ought not to be admitted to convict or criminate him, unless as it may apply to himself or to an agent employed by him, may not general evidence, nevertheless, of the existence of the conspiracy charged upon the record, be received in the first instance, though it cannot affect such defendant unless brought home to him, or to an agent employed by him; and whether the same rule would apply if a defendant sought by such general evidence, in the first instance, to affect the prosecutor with a conspiracy to suborn witnesses for the destruction of his defence."

The Question was delivered to the lord chief justice, and the learned Judges requesting leave to withdraw, leave was granted accordingly.

Lord *Kenyon* stated, that Mr. Granville Sharpe, who had given evidence respecting the performance of the Moorish dance at Calcutta, wished to make a correction in a part of his evidence. He had, since he appeared at the bar, seen a letter or written document, which raised a doubt in his mind, as to whether the bishop of Calcutta was present at the exhibition of the dance. Mr. Sharpe was in attendance, and might now be called, if their lordships pleased to hear his explanation.

Then *Granville Sharpe*, esq. was again called in, and further examined by the Lords, as follows:

Lord Chancellor.—It has been stated to the House that you are desirous of making some correction in your evidence, with respect to a person or persons stated to have been present at a dance at Calcutta, is that so? It is.

Be so good as to state what the correction is? In the evidence I lately gave before your lordships, I stated that the bishop of Calcutta was present at an Eastern dance; since that time I have seen a private memorandum, made by a person who was present upon that occasion, made about the time, which leads me to believe that the bishop himself was not present, though it confirms other parts of my statement.

Have you any reason to suppose, that you made any mistake with respect to the other persons stated to be present on that occasion? I have no reason to doubt, in fact it is confirmed by the memorandum, that the other persons were present.

Lord *Kenyon.*—Are you correct in your recollection, and are you now of opinion that the bishop was not present? My memory is strongly impressed that the bishop was present, but I consider the written document more to be depended upon than my memory.

The Witness was directed to withdraw.

The *Lord Chancellor* did not exactly see how far it was material that the bishop should appear present or not at the dance. The former question and answer might therefore, stand or be expunged, just as their lordships pleased. It was certainly very commendable in the witness if he had scruples respecting any part of his former testimony to come forward and state those scruples to the House.

Mr. *Brougham* requested permission to put in two letters, one of his late majesty, and the other of his present majesty, both of which he had stated in opening the Defence of her majesty, and requested that the earl of Liverpool might look at them to identify the hand-writing. The earl of Liverpool was accordingly sworn at the table by the lord chancellor; but Mr. Solicitor General expressing his willingness to admit the hand-writing of the said letters respectively,

The said letters were marked by the clerk assistant. [For copies of them, see page 207, and 208, of the present volume.]

Then *Samuel Inman* was called in, and having been sworn, produced a paper, and was examined as follows by their lordships:

Lord Chancellor.—What paper have you got there? A certificate of the servitude of William Carrington in his majesty's navy.

Are the entries taken from the original books? I have extracted this from the books of his majesty's ships therein specified.

Those are faithful extracts? These are faithful extracts from those books, made by myself; I have the books here from which this is taken.

The Solicitor General of the Queen, having seen the paper, stated that it did not occur to him to put any questions upon it.

The same was delivered in.

After a short time, the learned Judges being returned; the Lord Chief Justice of the King's-bench, delivered the unanimous opinion of the Judges upon the first and second Questions, severally in the negative; and gave his Reasons as follows:

Lord Chief Justice *Abbott.*—My lords, the Judges conferred together for some time yesterday, upon the questions proposed to them by your lordships; and afterwards separated in order to consider them apart, and met again early this morning, and again conferred together upon them. All of us then agreed in the answers to be given to the questions proposed to us, and I having read to my learned brothers the writing which I had prepared as containing my own sentiments and answer, it was found that they concurred therein; and I have their authority, with your lordships permission, to deliver what I had written (which your lordships will observe is in the singular number, being originally prepared as my own alone), as containing and expressing their sentiments also.

My lords, the first question proposed by your lordships is in these words: "If, in the trial of an indictment for a capital offence, or any crime, evidence had been given upon a cross-examination of witnesses, examined in chief in support thereof, from which it appeared that A. B., not examined as a witness had been employed by the party preferring the indictment as an agent to procure and examine evidence and witnesses in support of the indictment, and the party indicted should propose, in the course of the defence, to examine C. D. as a witness to prove, that A. B. had offered a bribe to E. F. in order to induce him to give testimony touching the matter in the indictment, E. F. not being a witness examined in support of the indictment, or examined before it was so proposed to examine C. D., would the courts

below, according to their usage and practice, allow C. D. to be examined for the purpose aforesaid, or could such witness, according to law, be so examined, if the counsel employed in support of the prosecution objected to such examination."

My lords, the question thus proposed by your lordships to the Judges must be admitted by all persons to be a question of great importance, as it regards the administration of justice; and it is to me a question entirely new, and of very difficult solution. I have considered it with all the attention due to a question proposed by your lordships, and with an anxiety proportioned to the importance of the question itself; and it is not without much diffidence that I now offer to your lordships the result of my deliberation. Your lordships will allow me here to interpose an observation, and to say, that the diffidence I felt at the moment of writing has been considerably decreased by the knowledge I now have, that my opinion and sentiments have received the concurrence of my learned brothers.

The question must, as it appears to me, be considered in the same mode, and must receive the same answer as if the parties were reversed, as if, instead of proof offered on the behalf of a defendant respecting the act of an agent employed by the prosecutor, it were proof offered in reply on the part of the prosecutor, respecting the conduct of an agent employed by the accused to procure and examine evidence and witnesses in support of his defence. If such proof can be received on the part of a defendant, it must be received on the ground that it may lead to a legitimate influence and conclusion, that the witnesses examined against him, although not appearing to have been called before the court by any undue means, are nevertheless, on this ground, extraneous and foreign to them, not to be considered as the witnesses of truth. And if such an inference and conclusion can be reasonably and legitimately drawn in favour of a defendant, in the case proposed by your lordships, I am unable to discover any principle upon which I may say that the like conclusion may not be, with equal reason, drawn against him in the analogous case, that I have taken the liberty to suggest; so that proof of this nature, if admissible, must be expected to lead as frequently to the condemnation of an innocent man by casting discredit upon his defence, as to the acquittal of such a person by disgracing the prosecution; and this consideration enables me to contemplate the question proposed with more calmness than I should be able to view a question, of which the determination might possibly, by the exclusion of his evidence lead to the condemnation of an innocent person, but could in no case produce the same consequence by the exclusion of evidence against him.

The question proposed by your lordships, regards the act of "a person employed by the party preferring an indictment as an agent, to procure and examine evidence and witnesses in support of the indictment;" and it regards the act of that agent, addressed to a person not examined as a witness in support of the indictment, and the offered proof not apparently connecting itself with any particular matter deposed by the witnesses who have been examined in support of the indictment, and leaving therefore those witnesses unaffected by the proposed proof, otherwise than by way of inference and conclusion; and this question may be considered as it regards the prosecutor or party preferring the indictment, and as it regards the witnesses.

The prosecutor has by the hypothesis employed a person as an agent to procure and examine evidence and witnesses. This is a lawful employment, necessary in many cases, in some meritorious, in none disgraceful or improper, if we look either to the employer or to the person employed; and being a lawful employment it is to be presumed until the contrary be shown, that the employer means and intends that his agent shall execute it by lawful means; and as, according to the general rules and principles of law, a person is not to be affected in interest or fame by any act of another, although that other may have been in his employment or confidence as an agent or otherwise, excepting such acts only as either are in their own nature or may by extrinsic evidence be shown to be within the scope of the authority given by him, and which may therefore be considered as his acts performed by the hand, or his declarations uttered by the tongue, of his appointed substitute, it would be contrary to those general rules and principles, to allow a prosecutor, and through him the prosecution that he has instituted, to be disgraced by the act supposed in your lordships question, without some further proof affecting him, than the terms of that question suggest. It is perfectly consistent with the matters of fact contained in your lordships question, that the prosecutor may, up to the very moment when the proof is offered, be wholly ignorant of the wicked act of his agent; it is no less consistent that, having been informed of the act, he may have rejected it with indignation, and have repudiated the proffered testimony, and withholden the witness from the court; and if he be absent from the trial, which frequently happens, it may be impossible to prove his ignorance in the one case, or the propriety of his conduct in the other.

With regard to the witnesses, my lords, which is the most important part of this consideration (because if false witnesses are produced against a person, it is of little consequence to him by what particular procurement they may have been produced), it is to be considered whether a legitimate inference and conclusion can be drawn against their credit and veracity from the proof proposed. The proposed proof does not directly affect

them, it regards an act to which according to the hypothesis, they may be entire strangers, and being an unlawful act, they are not to be presumed to have been parties to it, or to any other act of the like nature, without proof against them; they may be persons of honour and probity, deposing to facts really and truly occurring within their own personal knowledge, and taking place within their own sight or hearing, as they have averred upon their oath. It may have been intended, that the person to whom the bribe was offered, should speak to other facts, occurring at another time, and in another place, wholly unconnected with them, or with the matters to which they have deposed; can it then be reasonably concluded, that the facts deposed by them are untrue; that, however respectable or numerous they may be, they must be all wicked and perjured men, because some other man has, from overweening zeal or a corrupt heart, wickedly endeavoured to seduce by money another person to give evidence touching the matter of that indictment on which they have appeared? I must say, my lords, that I am of opinion, that such conclusion cannot reasonably be drawn, either in the case proposed in your lordships question, or in that analogous case which I have taken the liberty to adduce. The utmost effect, in my opinion, of the proposed proof, and in many cases even this would not be a fair or reasonable effect, would be to excite suspicion; but suspicion is not a legitimate ground for the verdict of a jury, which ought only to be founded upon reasonable and probable proof. For these reasons, I think your lordships first question must be answered in the negative.

This, my lords, is the opinion which, after much consideration, I have formed upon the question proposed by the House. That question is couched in the most general and abstract terms; and your lordships must be aware of the difficulty that may often occur in forming an opinion upon a question of such a nature, applied, not to a matter of abstract science, but to a matter connected with the business and affairs of men. Few cases occur in the practical administration of justice, wherein a judge does not find some help toward a right decision of a questionable point in antecedent or accompanying facts and circumstances appearing before him, and is not guided in his application of general principles to the individual case by the particulars of that case itself. The question, as proposed by your lordships, does not contain any such aid or guide; I mention not this, my lords, by way of complaint against the question, but by way of excuse for the imperfection of my answer to it; and I must beg leave to add, that notwithstanding the opinion I have delivered on the question proposed, I am by no means prepared to say, that in no case, and under no circumstances appearing at a trial, it might not be fit and proper for a judge to allow proof of this nature to be submitted to the consideration of a jury; and the inclination of every judge is to admit rather than to exclude the offered proof.

2. The same reasons which have induced me to answer your lordships first question in the negative, lead me to answer the second question also in the negative.—The question is in these words: "If in the trial of an indictment for a capital offence, or other crime, evidence had been given upon the cross-examination of witnesses examined in chief in support thereof, from which it appeared that A. B., not examined as a witness, had been employed by the party preferring the indictment, as an agent to procure and to examine evidence and witnesses in support of the indictment, and the party indicted should propose, in the course of the defence, to examine G. H. as a witness to prove, that A. B. had offered him a bribe to induce him to bring to him papers belonging to the party indicted, G. H. not having been examined as a witness in support of the indictment, would the courts below, according to their usage and practice, allow G. H. to be examined for the purpose aforesaid; or could such witness, according to law, be so examined, if the counsel employed in support of the prosecution objected to such examination."

In answer to this question, my lords, I must also take leave to add, as another ground of objection to the proof proposed in the question, that it does not thereby appear what was the nature of the papers alluded to, or what the motive of the party endeavouring to obtain them; for any thing that can be inferred from that question, the papers might be unconnected with the subject of the prosecution, and relate wholly to some other and different matter.

Then the Lord Chief Justice of the King's Bench delivered the unanimous opinion of the learned Judges to the first part of the third question in the affirmative; and to the latter part of the same in the affirmative also, with a qualification, and gave their Reasons as follow:

The third question proposed by your lordships is, "Supposing that, according to the rules of law, evidence of a conspiracy against a defendant, for any indictable offence, ought not to be admitted to convict or criminate him, unless as it may apply to himself, or to an agent employed by him, may not general evidence, nevertheless, of the existence of the conspiracy charged upon the record, be received in the first instance, though it cannot affect such defendant unless brought home to him, or to an agent employed by him; and whether the same rule would apply if a defendant sought by such general evidence, in the first instance, to affect the prosecutor with a conspiracy to suborn witnesses for the destruction of his defence."

My lords, we understand the first part of

this third question to relate to a prosecution for some crime, the proof whereof is supposed to consist wholly or in part, of evidence of a conspiracy entered into by the party then indicted and under trial, so that the conspiracy is to be given in evidence against him; and the latter part of the question regards the case of a person indicted for some crime, and seeking to defend himself against that indictment by proving a conspiracy to suborn witnesses against him; and the points of inquiry in both parts regard only the order and course of adducing the proof before the Court; and so understanding this question, we have no hesitation as to answering the first part of it in the affirmative. We are of opinion, that on a prosecution for a crime to be proved by conspiracy, general evidence of an existing conspiracy may in the first instance be received as a preliminary step to that more particular evidence by which it is to be shown, that the individual defendants were guilty participators in such conspiracy. This is often necessary to render the particular evidence intelligible, and to show the true meaning and character of the acts of the individual defendants, and on that account, we presume, it is permitted. But it is to be observed, that in such cases the general nature of the whole evidence intended to be adduced is previously opened to the Court, whereby the judge is enabled to form an opinion as to the probability of affecting the individual defendants by particular proof, applicable to them, and connecting them with the general evidence of the alleged conspiracy; and if upon such opening, it should appear manifest that no particular proof, sufficient to affect the defendants, is intended to be adduced, it would become the duty of the judge to stop the case *in limine*, and not to allow the general evidence to be received, which, even if attended with no other bad effect, such as exciting an unreasonable prejudice, would certainly be a useless waste of time.

As to the second part of the question, my lords, we understand it to be here assumed, that the supposed conspiracy to suborn witnesses against the accused, is a legitimate ground of defence, and that your lordships do not ask the opinion of the judges upon that point, and therefore upon that point we do not presume to offer any thing to your lordships; and considering this latter part of the proposed question, like the first part, to regard only the order and course of adducing the proof, we should give the same answer, in the affirmative, with this qualification only, namely, that the proposed evidence should, in some way, be previously opened to the Court, as in the case of a prosecution to be proved by conspiracy, in order to enable the judge to form an opinion as to the probability of bringing the evidence home so as to affect some person, whose acts are material and relevant to the issue in the indictment then under trial.

Mr. Attorney General stated, that having been present, by the permission of their lordships, during the delivery of the concurrent Opinion of the Judges by the lord chief justice, he trusted he should stand excused for submitting a few observations. Whilst engaged in the discharge of a duty which had been cast upon him, he had understood, at its outset, that, in the production and reception of evidence, their lordships had resolved to be guided by the rules of the courts below. He hoped that, in the discharge of a duty so anxious, and to him personally so painful, he should not be supposed to have acted improperly in having, the day before yesterday, interposed to offer an objection founded upon that resolution. The Opinion of the Judges, as he understood it, confirmed the validity of the objection as originally taken on a preceding day by his learned friend the Solicitor-general. If, however, their lordships thought that the inquiry to which the question so objected to was pointed, was an inquiry that ought to be pursued, he, for one, would no longer object to it, but rest persuaded that its result would be to the credit of the Milan commission. Even although a *primâ facie* case should be made out against the persons engaged in that commission, their lordships, he was sure, would reserve to him the opportunity of rebutting hereafter the evidence in support of it. At all events, he felt conscious that he had throughout endeavoured to discharge, with the best ability he possessed, a most arduous and most painful duty.

The *Lord Chancellor* inquired of the Queen's counsel whether they had any thing to offer in reply to the attorney-general.

Mr. *Brougham* said, he could not undertake to state that he yet precisely understood the opinion of the learned Judges, or the effect of the observations just made by his learned friend.

The Counsel were directed to withdraw.

The Earl of *Liverpool* said, it would save trouble, if he now stated what his view was of the questions proposed to be put to the witness at the bar. He had always thought that if they departed from the rules respecting evidence which were adhered to in the courts below, they would have no marks to go by, and would be continually plunged in collateral discussions. But he certainly was most anxious

that the investigation which the Queen's counsel had been desirous to commence should be pursued to its utmost extent. The course of examination which was now proposed, was very different from that which was proposed a few days ago, when evidence was offered respecting the conduct of an individual, against whom could not be proved a shadow of agency. But certainly whatever degree of agency might be said to attach to the advocate Vimercati, it was such that if, without violation of law, it could be done, it was desirable his conduct should be inquired into. The result of the Opinion given by the Judges (which, however, was not without difficulty) was, that the inquiry could not be pursued, unless the attorney-general consented to wave his objection. The learned gentleman had, however, withdrawn it, and he was very happy that he had done so, that the inquiry might be proceeded in.

Earl *Grey* observed, that it now appeared that the question on which so much time and deliberation had been consumed, was a question which ought to be put to the witness. He thought so too, but not for the reasons stated by the noble earl. If the Opinion of the Judges was clear, and ought to govern their proceedings implicitly, there was a rule laid down from which the noble and learned lord on the woolsack had himself frequently departed in the course of the present trial. The attorney-general now waved an objection which he had before most strenuously urged; but this was not of itself a reason sufficient to induce him to deviate from any rule which their lordships had previously established, from any principle of law, or that was essential to the administration of justice. Admitting the anxiety of the noble earl to bring this part of the inquiry to a conclusion — an anxiety which he was sorry had not displayed itself at an earlier period, because it might then have saved a great deal of useless discussion — he could not concur with him in the reasons which he now offered for going into it. Whatever was the practice of the courts below, he was now more than ever confirmed in his opinion, that the question ought to have been allowed to be put at once to the witness. The learned Judges did not appear to him to have given a very satisfactory explanation of the points referred to them. In their elaborate answer they gave no distinct statement, as to what was the practice of the courts below, but described the matter propounded to them as full of difficulty and doubt. It was not an answer indeed, but an elaborate argument, quite unnecessary on this occasion, and affording no light on the general subject. He expressed his feelings as they arose out of a consideration of the general subject; and he must add, that there was this material defect in the answer of those learned persons — that it stated none of those facts or circumstances which were represented as likely to influence the decision of a judge when presiding at a trial. It was represented on their authority, that the proposed course of examination might, on some occasions, be allowed, with the view of eliciting truth. Why, then, upon an opinion so little conclusive, so little distinct as to the usage of other courts — why, as had been so ably urged the day before, in the powerful speech of a noble friend behind him (the earl of Rosslyn), were they, under special circumstances, and in the most special and extraordinary proceeding, to exclude evidence so apparently important? He thought it right to state his view of this question; but, at the same time, he could not but feel glad that, for reasons, whether good or bad, there was an unanimous feeling, that the examination ought to be continued. He now, therefore, moved that the examination be resumed.

The *Lord Chancellor* said, he could not allow the question to pass without saying a few words. When he had put the question to the Judges, he had called their attention to it in such a manner, as to induce them to state, not only what the practice of the courts below was, but also what was the law on the subject. He had been of opinion, that the point was altogether new, and that, therefore, they would not be able to state any practice on the subject. What he had foretold had occurred: the case put was quite new to them, and they then felt it necessary to state what the law was on the subject; and (as they had no case in practice to refer to) he was sure they would have been wanting in respect to the House, if, in a case so novel, they had not stated the reasons on which their opinion of the law was founded. He would leave it to their lordships to say, whether he had departed from the rules he had laid down. But he would now affirm, that if he conceived the question to be contrary to the rules of law, no consent of the attorney-general

should induce him to allow the question to be put. At the conclusion of the Opinion of the Judges, however, there was a statement of their opinion, which it was of great importance should be placed on their lordships Journals, viz. that they understood that the particular facts disclosed in any case should very much regulate the questions which should be put to witnesses in such cases. They stated the law, therefore, in such a manner, that if their lordships decided that the question should be put, it would be a precedent for the courts below in no other way than this, viz. that in a particular case, under particular facts disclosed, the House of Lords consented to put such questions. It was his duty to speak his opinion plainly; and he would do so through good report and through evil report; and that opinion was, that the facts disclosed were not sufficient to warrant the letting in of the evidence. But this objection he should not press (except, perhaps, for the purpose of recording it), because many of his co-equal Judges in that court were of a different opinion as to the nature and weight of the facts disclosed.

Lord *Erskine* said, he certainly required no waver of the attorney-general to convince him that the evidence in question ought to be received. It ought to be received on the ground of its essential importance to the elucidation of truth. The answer of the learned Judges did not amount to a negative of his proposition: it admitted, that general evidence might be admissible, and it was difficult to say that one question might not produce evidence of a general nature as well as another. He contended, therefore, that he had the authority of the learned Judges for the proposition which he had at first maintained.

Then *Bonfiglio Omati* was again called in, and further examined by Mr. Wilde as follows, through the Interpretation of the Marchese di Spineto.

The Evidence of the Witness on Monday last was read over, and the Witness was asked:

You have stated that Vimercati told you to bring the papers belonging to her royal highness, did he offer you any inducement to bring those papers? He told me that he would give me an employment, and he would give me more emolument than my own employer.

Did he state the nature of the employment he would give you? In the police of Milan.

Did you afterwards possess yourself of any of her royal highness's papers, and take them to Vimercati?

The Counsel were informed that the proper question would be, Whether he did any thing in consequence?

Did you do any thing in consequence of your communication with Vimercati with any papers of her royal highness? On the following day I brought him some.

Did Vimercati say any thing to you as to the time at which you were to go to his office? He told me to call in the evening.

Did he mention any time in the evening? After sun-setting.

Did you on any other occasion take any papers of her royal highness to Vimercati? I did.

For how long a period were you in the habit of taking her royal highness's papers from Codazzi, her solicitor, and carrying them to Vimercati?

Mr. Solicitor General objected to the form of the question, though not to the substance.

On how many occasions did you take papers from Codazzi, and carry them to Vimercati? I do not know how many times.

Did you do it frequently? No.

About how often do you believe? Seven or eight times at the utmost.

Did Vimercati know, when you took those papers to him, that you were a clerk in the office of Codazzi? He knew it, certainly.

By whose desire, or at whose request, did you take them? I do not know the man.

Had you any conversation with Vimercati about your taking them? He told me to bring to him those papers I could get.

Did you receive any thing from Vimercati for taking those papers to him? Money.

How often did you receive money from Vimercati for taking to him her royal highness's papers? Six times.

Were you satisfied with the money that you got from Vimercati? I was not.

Did you ever make any complaints to colonel Browne that Vimercati had not paid you money enough for taking papers from your master to Vimercati? I complained once.

What did colonel Browne say to you on your making those complaints? He told me he was a friend to the advocate Vimercati, and that I ought not to doubt that he, Vimercati, would perform his promise.

Did you, in consequence of your communication with colonel Browne, make any further application to Vimercati for any more money? Colonel Browne told me to call again on the following day on advocate Vimercati, who would give me something.

Did you call on Vimercati? I did.

Did you receive any more money from him? I did.

Where does Vimercati live at Milan? He lives in the street of the Crucifisso.

Did he live at the same place at the time you took the paper to him? Not the first time.

Name the other place at which he lived, when you took papers to him? The first time he was living in the street Ruga Bella, and then he went to dwell in the street of Crucifisso.

Do you know the number at which he lived in Ruga Bella? It was in a lane, a narrow street.

Where did colonel Browne live at the time you applied to him? Below the bridge of the Eastern Gate *(Porta Orientale)*.

Do you know the number? I do not.

Do you know to what subject the papers you took to Vimercati related? I know the subject of some of them.

State to what subject those related of which you knew the contents? One was a deposition of a femme-de-chambre *(cameriera)*, who had been sent to Vienna together with Sacchi.

To what subject did the papers relate? They were letters.

Were there any examinations of witnesses? Not among the letters; they were letters of her royal highness, and the baron, and others.

What other papers were there besides the letters? There were some copies of the advocate Codazzi, who had answered.

Answers to what? The answers of Codazzi, to Pergami.

Were there any other papers than letters and copies of letters? No.

Do you know to what subject those letters related? Of some of them.

State them? One was of Pergami.

What was the subject of those letters; were they on the subject of this inquiry? The advocate Vimercati told me to bring to him those letters which treated of depositions; that is, which desired somebody to come and give evidence.

Did you, in point of fact, carry papers relating to that subject to Vimercati? Letters, not papers.

Do you know a man of the name of Riganti? I do.

Did Riganti ever make any application to you about papers? He has been at my house to ask for them.

Did you tell Vimercati of Riganti's application for papers? I did.

What did Vimercati say upon the subject of Riganti's application for papers? I did not know Riganti, and I asked Vimercati who he was, and he told me that he was a person of character, and that I might give him any papers.

What did Riganti ask you to do with th papers you have spoken of? To give them to him, and he would give me a great deal—much.

What papers did Riganti wish you to give to him? Papers respecting the affairs of her royal highness.

What affairs of her royal highness? Those which are now in England.

What subject did they relate to? He told me nothing else.

Did Riganti know in whose employ you were? He knew it, for he came to my house. Riganti came after me, and asked for the secretary of Codazzi, for I was the secretary of Codazzi.

Did Vimercati say any thing further, as to the employment of Riganti? He told me that he was a person of character, he told me nothing else.

When did you first disclose to Codazzi that you had taken those papers? On the 27th of July.

By a Lord.—In what year? This year.

Mr. *Wilde.*—Do you mean the year 1820? Yes, 1820.

Do you mean to say this was the first time you told Codazzi of the circumstance? It was.

You have said, that you do not know the number of colonel Browne's house; describe the house, and what premises are about it, whether it is a private house, or a shop, or what? It is a house.

Is there any business carried on at the house, any goods sold there? There is a shop on both sides of the door.

What sort of shop, what goods are sold in the shops on either side? On the left, there is a tailor's, and on the right, a dealer in alabaster.

What business does Riganti carry on? He sells tobacco and salt.

Can you state whether there are any shops next to Riganti's house? There are.

What are they? I do not know, for I pass seldom that way.

Cross-examined by *Mr. Solicitor General.*

How long have you lived with Codazzi? A year and a half.

Have you acted as his clerk all that time? Always.

Down to the present time? Till the 27th of July.

Did Codazzi turn you out of his service on the 27th of July? He did.

Have you ever been in his employment since? No.

Do you mean to swear, that from the 27th of July down to the present time, you have never been in the employ of Codazzi? I can swear it a thousand times.

With whom did you come over to this country? With the chevalier Vassali.

Did you come over alone with Vassali, or whom else? There was another person.

Who was that other person? A certain Lago Maggiore.

After you had left the service of Codazzi, did you enter into the service of the chevalier Vassali? I did not.

Did you not come over to this country as a servant of Vassali? I did not come in the service of Vassali.

Did you not come over to this country in the character of a servant of Vassali? No, because he had a servant with him.

Did you never represent yourself on any occasion to be a servant of Vassali? No, never.

Did Vassali never represent you to be his servant in your presence? Never, never.

When was it you first saw Vimercati? September the last year.

Can you tell us the day of the month? I do not know the day.

Can you tell us about the time of the month? Towards the end.

Did you know Vimercati before? I did.

Did you go to Vimercati of your own accord, or what led you to go to him? The employer with whom I was before had some money due to him.

When you went to Vimercati's in the month of September, and towards the end of that month, did you go of your own accord, or what led you to go there? There was a person who urged me twice to go, and then that person took me himself there.

Did that person tell you what you were to go to Vimercati for? He told me that I ought to go, because he wished to speak to me, and I should be made a gentleman if I went.

Did he tell you how you were to be made a gentleman if you went? He told me so much, he told me no more; he told me that he would take me.

Did you know at that time, that Vimercati was employed at all in the process about her royal highness the princess of Wales? When I went I knew it.

Do you mean to say you did not know it until you saw Vimercati, did you not know it at the time when you saw this person? I knew it.

You knew it when you saw this person? What person?

You have told us that you saw a person twice, who desired you to go to Vimercati; at the time you saw that person, did you know that Vimercati was employed in the process about her royal highness? I knew it.

Was Codazzi at that time employed for her royal highness? He was not employed on the affairs of her royal highness in England, but for the affairs that her royal highness had in Italy.

Did you know that Codazzi was in possession of papers belonging to her royal highness? I had them in my own writing table.

Did you not then immediately, as an honest man, communicate to your master Codazzi, that you had received this message to go to Vimercati? I did not.

Did you not conceive it to be your duty to do so? I thought that I could produce no prejudice, no mischief; that I could do no harm.

Do you mean to say that you thought you could do no harm in delivering over to Vimercati papers belonging to her royal highness; the letters and other documents you have mentioned? Documents I did not give, I gave letters.

Do you mean to say, that you thought you could do no harm in handing over letters of her royal highness to Vimercati, without the consent of your master Codazzi? Yes, I thought to do no harm.

Did you not think it your duty to tell your master Codazzi, in order that he might judge for himself, whether or not it would do harm? I did not tell him.

Did you not conceive it your duty to tell him? I believed it was nothing.

Do you mean by that to say, that you did not think it was your duty to communicate this to your master? I thought it was my duty, but I neglected it.

Have the goodness to tell us who this person was that called upon you twice, in the manner you have described? I do not know the person; if I knew him I would tell.

Where did you see him the first time? In the street of San Vittore, near the theatre.

Did you meet him by accident? By accident; I did not know him, nor do I know him; he stopped me.

When he told you to go to Vimercati, you being the servant of Codazzi, did you not ask him what his name was, and who he was? I asked him, and he told me that it was no business of mine to know it.

When was it that you saw him the second time? On the following day.

Did you meet him by accident the second day? Yes, in the same place, in the same street.

Did you meet him by accident the second day? Yes, I was coming from the office.

Was it the same hour the second day? The same hour.

Did he repeat the same question to you the second time? He asked me also, whether I had thought upon what he told me the day before.

What did you tell him in answer to that? That I had thought upon it, and I would not go.

Did you meet him a third time? No, I went then, this second time.

After telling him you would not go, you in point of fact did go? Yes.

Did you ask him his name the second time, when he urged you so much to go? He would not tell me even then; I asked him.

Did you go alone, or did you go with him? He took me as far as his door.

Have you ever seen this man at any time since? I have seen him since, but I could not see him clearly in the face.

Had you no curiosity to know who he was? How could I know it.

Had you no curiosity or wish to know who he was? If I could have known it, certainly.

Did you follow him for that purpose, when you met him the third time, or any of the former times? On the second time.

Where did you follow him to, the second time? As far as the door of advocate Vimercati, he took me, and then he went away.

Had you any papers in your pocket at that time? On the following day I brought the papers; then I had none.

Did you ever meet this man by accident again? I did meet him, but I could not see him in the face.

Only once? Only once.

Did you speak to him? I did not see him in the face; I could not speak to him.

Was he a young man or an old man? Middle aged.

Of what complexion, light or dark? Black hair.

A stout man or how? A little stout.

How was he dressed? I am not a painter, to draw his picture.

How was he dressed? I do not remember, I do not know.

Do you mean by that, that you do not know or that you do not remember? I do not remember how he was dressed; he was in a coat, but I do not remember the colour of the coat.

Has any body told you that when you came here to be examined at the bar, you were to be careful not to say "*Non mi recordo?*" I have heard it said about the town; and I have asked what was this *Non mi recordo.*

Has not Chevalier Vasseli told you to be particularly careful not to say *Non mi recordo?* No; he told me nothing; nobody has told me any thing.

Has nobody told you that you ought to be careful, to say rather "*Non mi sovvienne.*" or "*Non so?*" I know it by myself, without being told by any body.

Did Vimercati pay you any thing for the papers you delivered the first time? He gave me three double golden Napoleons, and he told me that they were for me to take chocolate.

When was it that you carried the second parcel of papers to Vimercati? After the month of September.

Tell us, as nearly as you can, how long it was after the first parcel was delivered, that you carried the second parcel? Three or four days.

What did Vimercati pay you for the second parcel? Four single Napoleons.

Did you go the second time in consequence of being sent for, or what led you to go? I went by my own accord.

When was it you carried the third parcel? In the month of October.

About what time in the month of October? I am not able to recollect the day; I know it was in the month of October.

Was it in the beginning, the middle, or the latter end of October? In the month of October; I do not remember whether it was in the beginning, the middle, or the end; I know it was in the month of October.

Did you get paid for the third parcel? He paid me at another time.

When was it you carried the fourth parcel? I carried him papers as far as the latter end of November.

When was it you carried him papers the fourth time? I do not remember whether it was in the month of October or November.

Did you carry many papers? Some letters.

Having carried those papers from time to time during this long period, and having been paid by Vimercati, did you ever communicate the circumstance to your master? I never said any thing to Codazzi.

Do you mean to say, that from the month of September to the month of July in the following year, Codazzi never spoke about those papers to you? Never.

Did Codazzi never miss any of those papers? No.

Did he never ask for them upon any occasion? No.

You have said that those papers were left in your charge and custody, were you a confidential clerk of Codazzi? Confidential clerk.

Being the confidential clerk of Codazzi, did you not think you were acting a most infamous part in selling his letters to the advocate Vimercati? Not at the beginning.

As the beginning was in the latter end of September 1819, how long was it before this light broke in upon your understanding?

Mr. *Denman.*—For the sake of regularity and for the sake of following the example of my learned friend, who often objected to similar questions, I object to the question, because it assumes that some light did break in upon the witness's mind.

You have stated, that you did not at first consider that this conduct was most infamous; when was it you did first discover, if you ever did discover, that this conduct was most base and infamous? About the beginning of this year.

Was it a discovery of your own, about the commencement of the present year, that your conduct was base and infamous, or were you told it by any other person? There are many who act basely and infamously, but then afterwards they repent, and so have I.

You having discovered, at the commencement of the present year, that this conduct was base and infamous, did you not think it your duty to communicate it to Codazzi? I thought it better to be silent.

Having not only discovered that the conduct was base and infamous, but having already sworn that you repented of it, did you not think that the best thing you could do, as the fruit of that repentance was, to communicate it to Codazzi, in order that the evil might be repaired? I could not foresee all these things.

You have told us, that at the beginning of the year it was, that you repented, when was it that you carried the last parcel of papers to Vimercati? I do not remember whether it was in the end of November or the beginning of December.

Is it to be understood that you never carried any papers after the end of November, or the beginning of December, to Vimercati? Before I swear, allow me to think a little; in the month of July, when I went to ask about the name of the person who had called at my house, he asked me about the list of the persons who came in favour of her royal highness, and I gave him the list.

Did you call on Vimercati in the month of July last? Yes, to tell him that this person had called.

Was that the same person whom you had before met by accident in the street, that called upon you? No, the first person I did not know; but the person who came in the month of July was Riganti.

Did you give any papers at that time? I gave him a list of the persons who were going to set out.

Was that by the desire of Signor Codazzi? No.

Do you mean to say, that that was a list of the witnesses that were to set out on behalf of her royal highness? They were not all witnesses, I did not give the list of all the witnesses.

How many of the witnesses did it contain?

Mr. *Denman* submitted, that Mr. Solicitor-general could not examine to the contents of a written paper, stated by the witness to have been delivered to one of the agents in support of the bill.

Are you to be understood to say, you did not communicate to Codazzi that you had given this list? I did not tell this.

Having repented of what you had done as early as the beginning of the year, you afterwards in July delivered to Vimercati a list of the witnesses coming on behalf of the Queen?

They were five or six; I wrote them, I gave their names myself.

Did Vimercati pay you any thing for that last intelligence? No, I gave him this list to find out who was the person who had called at my house, this Riganti.

Did Riganti pay you any thing for this list? I did not give the list to Riganti, but to the advocate Vimercati.

How long was it after you had delivered this list to the advocate Vimercati, that your master Codazzi knew of it? On the same day that I told it to the advocate Codazzi, on that same day I gave this list to the advocate Vimercati.

With the exception of this list of which you have now made mention, did you deliver any other papers to the advocate Vimercati after the month of December in the year 1819? No, except the list in the month of July.

Will you swear that positively at this moment? I will swear it a thousand times.

Did you, after that, offer any papers to Vimercati? I never called on Vimercati till Easter, when colonel Browne sent me.

You have told us that Vimercati paid you for those papers, did Vimercati pay you for those papers at the time when the papers were delivered? He did in the beginning, not afterwards.

When was it that Vimercati made you the last payment? When colonel Browne sent me, towards the end of March of this year.

How long before that period, the end of March, was it that you received any money from Vimercati? The end of November.

So that from the end of November to the end of March you never received any money from Vimercati? Nothing.

Are you perfectly sure of it, and will you swear it? I will swear it a hundred times.

What was the sum you last received from Vimercati at the end of March? Fifty-two livres and a half of Milan.

Are you quite sure that that was at the end of March? I am.

Did you ever, upon any occasion, state, that you had received money from Vimercati for papers, in the month of February of this year? No, I never took any thing.

You are not asked whether you took any thing in the month of February, but whether you have never stated that you took any in the month of February? I have not said it, and I never called; for from the beginning of December till the end of March I never called.

Will you swear you have never said it? Yes, I swear it.

Will you swear you have never in any way so represented it?

Mr. Wilde objected to the question, unless it was stated that the question did not refer to a statement in writing.

Did you not call on colonel Browne with a bundle of papers? I had two or three letters to make myself known.

Did you not, when you called on colonel Browne, ask him whether he was not one of the commissioners appointed to inquire into the conduct of her royal highness? I knew it.

Did you not introduce yourself to colonel Browne by taking a bundle of letters from your pocket, and asking colonel Browne, whether he was not one of the commissioners appointed to inquire into the conduct of her royal highness? I called, and I took out two or three letters.

Did you not deliver those letters to colonel Browne, saying, "Are you not one of the commissioners appointed to inquire into the conduct of her royal highness?" I showed him the letter to make myself known, and I complained of the advocate Vimercati, who, after having seduced me, had paid me little.

Having stated that, upon taking these let-

ters out of your pocket, did you not ask colonel Browne, whether he was one of the commissioners employed to inquire into the conduct of her royal highness? Yes, I asked him so; but I knew it.

Did not colonel Browne ask you what your name was, and who you were? I made myself known, by telling him that I was the confidential clerk of the advocate Codazzi.

Did you tell colonel Browne, that you were the confidential clerk of Codazzi, when you first went into the room? At the first I asked him, whether he was colonel Browne, for I knew him not.

After you had asked him, whether he was colonel Browne, did not colonel Browne ask you who you were? He answered me, yes; he did not ask me who I was.

Will you swear that colonel Browne did not ask you who you were, and that you did not refuse to tell him? He did not ask me who I was, but I told him of myself.

Will you swear that colonel Browne did not ask you who you were, and that you did not refuse to tell; upon which colonel Browne shut the door, and said, you should not leave the room without informing him (colonel Browne) who you were? I swear this not to be true.

In answer to a question put by colonel Browne, did you not say, you were clerk to the advocate Codazzi, and did not colonel Browne then give you back instantly the two letters you had delivered to him, and tell you he thought you a most infamous scoundrel, and that you would end by being hanged? He will be hanged, not I, for I have not said so.

Mr. Cohen stated that he concurred in this being the answer the witness gave. On the suggestion of earl Grey, the question was repeated—

In answer to a question put by colonel Browne, did you not say you were clerk to the advocate Codazzi, and did not colonel Browne then give you back instantly the two letters you had delivered to him, and tell you he thought you were a most infamous scoundrel, and that you would end by being hanged? I repeat again, that it is not true; he gave me the letters, but he said no more; nay, he shut the door of the room, in order that we should not be heard, and he told me to speak not so loud, because I complained of the advocate Vimercati; and he told me to call the next day on the advocate Vimercati, from whom he would cause me to receive 200 francs; this is what he told me, nothing else, and that the advocate Vimercati is a person of character, and that he would keep his promise.

Did he not, when he shut the door, say you should not go out of the room until you told him who you were? He is a liar if he says so.

Do you mean to swear that colonel Browne did not say so? Yes, I swear it; he told what I have just said.

Did not colonel Browne say you were a most infamous fellow at that meeting? I have repeated it many times, he did not say so.

Did he not say you would end by being hanged? He never told me so.

Did he say any thing to that effect? Nothing at all, for I had been seduced by them, and they are more infamous than I am.

Did you call on colonel Browne more than once? I called the first time in the morning; he was not at home; then, after dinner I called and I found him, I have been twice.

Did you see him more than once? Afterwards I saw him many times through Milan.

Did you ever see him more than once at his own house? At his house only once.

When was that once that you saw him at his own house? About the end of March of this year.

What were the papers which you carried to colonel Browne at this time? Two or three letters.

When you called on Vimercati the first time, did you tell Vimercati who you were? He knew me.

Did not Vimercati ask you who you were, and did you not refuse to tell? He did not ask me, because he knew me immediately, and because a person whom I did not know took me as far as to his door.

You mean to swear that Vimercati did not ask you who you were, and that you did not refuse to tell him who you were the first time? Yes, I swear it is not true.

Did you not live at that time upon the terrace of the Porta Tosa? No, I lived then at Contrada Larga.

Is that the place where Codazzi lives? No, where I live.

Did you ever live at the Terragio di Porta Tosa? At present I live on the Terragio of Porta Tosa.

When did you first go to live there? On the 29th of September of last year.

Have you lived there from that time to the present? Yes.

Having stated that for two or three months you did not know it was infamous to betray the confidence of your master, do you consider it infamous to say, upon your oath, that which is untrue?

Mr. Denman, before this question was answered, wished to be referred to any part of the witness's evidence in which he had said that for two or three months he did not know that it was infamous to betray his master.

The following extract was read from the evidence of the Witness.

"You have stated that you did not at first consider that this conduct was most infamous; when was it you did first discover, if you ever did discover, that this conduct was most base and infamous? About the beginning of this year."

Mr. Denman objected to the question, as not being a correct recital of the evidence of the witness.

Having discovered for the first time in the month of January that your conduct was base and infamous, do you consider it infamous to say, on your oath, that which is untrue? To swear the truth is just, what is true I swear, and what I have stated I am ready to swear to.

Did you communicate those facts to Codazzi of your own motion? I told him on the 27th of July.

Upon your telling him on the 27th of July those facts, do you mean to swear that your master immediately dismissed you? Yes.

Whom have you been living with since, from that time down to the present? I am in trade.

What trade? I buy and sell woollen cloth for dresses.

Did you ever carry on that business before? Yes.

Do you swear, that you have no expectation of returning into the service of Codazzi after this business is over? I swear it, because I am in trade.

Who brought you over here? Chevalier Vassali.

What are you to have for coming here? I will receive nothing; I came here to remedy the evil I had committed, and to tell the truth.

You mean to swear that is the only reason of your coming here, and that you do not expect any reward from any person? I swear it; that being able to return quick home.

Do you mean to swear that nobody made you a promise of any thing for coming here? I swear it; they have promised me nothing.

And that it is entirely for the purpose of remedying the evil you have occasioned, that you have come here; do you mean to swear that? I do.

And no other motive whatever? Nothing else.

Have you had any communication with Codazzi since you have been turned out of his service? No, because I went into the country.

Did Codazzi never send for you? Never.

Is Codazzi still employed for her royal highness? I do not know.

You mean to swear, that you have neither seen nor had any communication with Codazzi since the month of July? I swear it a hundred thousand times.

Where do you carry on your trade? I carry it on at home.

Where is that? In Porta Tosa.

Is that in Milan? In Milan.

How far from Codazzi's? Much distance.

What do you mean by much distance, is it a mile? Oh, yes, more than a mile.

Have you lived in Milan from the month of July down to the time of your coming here? I always live at Milan, but from the month of July I have been a few days in the country.

Whereabout in the country? On the territory of Lodi.

Except those few days, have you been in Milan ever since the month of July? Yes.

You mean to swear, that though you have been in Milan during the whole of that time, Codazzi has not called upon you or seen you? I have seen him; I have bowed to him, and nothing else; but I have not spoken to him.

Where did you see him? On the Corso of the Porta Ticinese.

How long was that after you left his service in July? About a month.

Was Codazzi still concerned for her royal highness when you left his service in July? He was.

Do you mean to swear, that though Codazzi met you in Milan, he did not speak to you upon any subject at all? I swear it an hundred thousand times.

Were you not examined at Milan before you came here? They have asked me a very few things.

Why was it they examined you? Because I had put in writing my deposition, and given it to Codazzi on the 27th of July.

Were you examined by Codazzi on the 27th of July? I, by my own accord, told him the whole story.

And Codazzi took it down it writing? I wrote it with my own hand.

Do you mean to swear, that after you had done that, Codazzi turned you out of his service? I do.

Did not Codazzi at that time tell you, "you must go out of my service now, and I will take you into my service again, for it will not do for you to be in my service till the process is over?" No, because in the office of Codazzi I get nothing, and I by my trade gain.

Did you leave the service of Codazzi in order that you might gain by your trade, or were you turned out of the office? He sent me away.

Did you know on the 27th of July that you should gain any thing by your trade? Yes.

Why so? Because I was still carrying on the trade whilst I was in the office of the advocate Codazzi.

How came you, carrying on trade, and getting money by it, to go into the office of Codazzi, and remain there for a year, where you say you got nothing? It was for the sake of learning to write well.

Will you swear now that you have no expectation of returning into the service of Codazzi? I have no expectation, I have no hope, because I am in trade, and that suits me better.

Re-examined by Mr. *Wilde*.

How old are you? Twenty-two years old.

You have been asked whether colonel Browne told you you were an infamous fellow; was it after your interview with colonel Browne that you received money from Vimercati? On the following day.

How much in the whole did you receive from Vimercati? Between 350 and 400 francs.

The Witness was directed to withdraw.

Then *Filippo Pomi* was again called in, and further examined by Mr. Tindal, through the interpretation of the Marchese di Spineto.

Do you know a person of the name of Riganti? I do.

Do you know whether his name is Filippo? I do, he is Filippo.

Where does he live? On the bank of Porta Ticinese.

What is he by trade? He sells tobacco, salt, liquors, brandy.

Do you recollect his calling on you at any time? He did not call upon me; but when I went into his shop, he always had something to say to me.

Did he never make you any offer?

Mr. Attorney General submitted, whether, as the evidence stood, it was competent for the counsel against the bill to go into evidence of offers by Riganti, leaving it to the House to determine whether they thought it fit to proceed to hear such evidence.

The Counsel were informed, that after the statement made by the last witness in his evidence, this question might be asked.

Mr. *Tindal.*—Upon that occasion, what did Riganti do? I went to buy salt, tobacco, or something; and he told me, for he knew I belonged to the Barona, "Pomi, have you ever seen those jokes (scherzi) between the princess and Pergami? now is the time to come forward, to gain something, and to become a man."

Did he say any thing more upon that occasion? He told me this; and I answered him, "No, I have seen no scherzi?" and he replied," "Oh, have you not seen Pergami put the princess on the back of the donkey, and put his hand under her petticoats?"

Did you make any answer to that? Yes, I told him that this was a perfect falsehood, for, instead of that, he paid her all possible respect and decency which was due to that great personage.

Was any thing more said? Yes, at other times, whenever I went to his shop; so that I was obliged never more to go to his shop, for he annoyed me so much.

Cross-examined by *Mr. Attorney General.*

You are understood to say, that Riganti never called upon you, but that this conversation took place when you went to Riganti's shop; is that so? Yes, it is positively so; I can swear it.

When was it that this conversation took place? When I went to buy something, either tobacco, or salt, or something.

Can you tell the time, how long ago it was? I do not know precisely; it happened the last year; I do not know the time precisely.

About what time in the last year? He said so many times, and whenever I went to his shop he always said such annoyances; and he even went so far as to say, that he would wage war till death; that he would be against her till death; and then there were other persons present, there were five or six persons present.

Be good enough to name the names of the persons, or any of them, that were present when this conversation took place? I could name Antonio Birraghi who was present; I remember he was present, the others I cannot tell; I know them, but I do not know their names.

Who is Antonio Birraghi? He is a man who always frequented this shop.

Where does he live? In Milan.

In what part of Milan? I do not know; I know he lives in Milan; he is a man of that description, I know his name.

Can you tell what he is? I do not know whether he is employed in the police, or whether he is employed somewhere else; I do not know precisely.

Antonio Birraghi heard this conversation as well as you? He did not speak to me directly, he spoke to all in general, to all those who were present, and this conversation he had not with me only.

This conversation was generally with the persons in his shop? Yes, with whomsoever was present.

You say you know some of the other persons, cannot you remember the names of some of the other persons besides Antonio Birraghi? It is impossible, for those names cannot be recollected, unless I had known that this affair should happen; then I should have paid more attention, and that would have more fixed them in my mind.

This sort of conversation, you state, took place frequently, when you went to Riganti's shop? Yes, about four or five times, as I have said; when I have heard those annoyances, so, as I have said, I was obliged not to go any more to his shop to buy salt or tobacco, or any thing else.

Did you go there to buy those things for yourself, or were they for the people at the Barona? For my own use, because I wanted them.

Was Birraghi present more than once, or only on one occasion? I cannot tell; he frequented the shop; he might have been there, or he might not have been there; for that once I remember that he was present.

Is what you have stated all that passed on those occasions; did you yourself say any thing more than what you have stated? I can say nothing more; I said that against that lady I can say nothing, for she is a just woman, and she is a charitable woman.

Examined by the *Lords*.

Earl of *Lauderdale.*—Were you yourself present at the balls at the Barona? Yes, I told it the other day that I was present.

Were your daughters there? No, because I had not daughters.

How came you to say, the other day, the sum that they gave was a livre to my wife and half a livre for each of my children, daughters? I said figli and figlie, because my eldest son is nine years and the others are under that age; I have daughters, but they are babies under nine years of age.

The Witness was directed to withdraw.

Then *Antonio Mioni* was called in, and having been sworn, was examined as follows by Mr. Williams, through the interpretation of the Marchese di Spineto.

From what place do you come? From Venice.

What business do you follow there? Before I was employed in the police; now I am a manager of a theatre.

At Venice? At Venice, wherever I meet with opportunity.

Do you know a person of the name of Paolo Zancla? I do.

What is he? He is a manager of a theatre.

Were you acquainted with that man in the month of March in the year 1818? I was.

Do you remember being at a theatre at Venice with that Zancla in that year? In the theatre of San Luca.

In what month? In the month of November.

At that time do you remember Zancla receiving any number of letters, one or more? He received two letters at once.

Did you observe whether Zancla opened those letters or not? I saw him open them, and emotion or surprise after he had read them.

Did you observe that he exhibited emotion or surprise when he read those letters? Yes, it is very true.

After that, did you and Zancla go together from Venice to Milan? We set out from Venice and went to Milan.

How soon after the receipt of those letters? Five or six days, or seven days, thereabouts.

How did you go, by what conveyance? By a diligence led by Doria.

When you arrived at the place from whence the diligence set out, was there any money deposited there for the use of Zancla? On the following day that Zancla had received his letters, we went together to the place of the diligence, I saw Zancla receive fifteen golden Napoleons.

When you had arrived at Milan, do you remember going with Zancla to a house in the Porta Orientale? I remember that we went to the Porta Orientale, to look for the number 660.

Do you remember the adjoining houses on either side, can you describe them by the trades carried on by the people, or in any other manner? Before reaching the door of 660, there is a tailor's shop.

Is that an adjoining house on the one side? Yes.

Do you at all recollect what is the description of the house on the other side? I have paid no attention to that; only I paid attention to the tailor's shop, because there we inquired after the number of the door.

Did Zancla go into that house, No. 660? He went in.

Did you go up or remain below? I remained below.

How long did Zancla remain away? About a quarter of an hour.

Did you wait for Zancla till he came down? Yes.

Did you and Zancla go together to the inn after you had called there? We did.

While you remained at Milan, do you remember going with Zancla to any other house? To the house of Vimercati.

Do you speak of Vimercati the lawyer or advocate? I do.

What is the street, do you remember? The street Ruga Bella.

Upon that occasion did Zancla go up stairs? Zancla went into the house and remained about an hour and a half, but this happened on the following day.

Did you remain below during the time? Yes.

At the end of the time you have mentioned, did Zancla join you again? Yes, and there was another man in company.

After that did you and Zancla go again to any other house? To the house of major Browne.

Do you say that it was major Browne? Major Browne.

Do you know a colonel Browne, as well as a major Browne; do you know two persons of that name? No, I know one alone; I do not know whether he is a major or a colonel, I have not seen his brevet.

Do you know the person you call major Browne? I saw him on the following day, on the Corso de' Servi, where he met Zancla and bowed to him, and Zancla told me he was major Browne.

Did you at that time observe whether Zancla and the major or the colonel spoke to each other? They did not speak to each other.

Did they move to each other? They bowed to each other, and each went their own way

What was the street in which major Browne lived? At the Porta Orientale.

Was the house of which you are speaking, to which you went upon this occasion with Zancla, No. 660, Porta Orientale? Yes, it was.

Upon this latter occasion, that has been spoken of, did Zancla go up stairs? On the evening when we arrived do you mean?

On the last occasion that has been spoken of? Yes, he went up stairs.

Did you go up stairs with him? I remained below.

How long did Zancla remain above? A quarter of an hour.

When he came down again, did you see whether he had any thing with him? He had a handful of double gold Napoleons.

To the best of your judgment and recollection, how many double Napoleons might there have been? He told me eighty; but at seeing them, I believe there must be as many.

Did they in fact appear as many as that? They appeared to be really eighty.

Do you mean eighty pieces, or forty pieces of double Napoleons? Eighty double Napoleons.

What did he say to you at that time?

Mr. Attorney General objected to this question. Although this was not a very regular inquiry, he presumed their lordships would require that it should be conducted with at least some degree of attention to the rules of evidence. The short objection which he should submit to their lordships was, that there was no evidence to show that Zancla was the agent of colonel Browne or Vimercati, or of any other person whatever; and consequently no conversation between Zancla and the witness could be evidence in this proceeding.

The Witness was directed to withdraw.

Mr. *Williams* contended, that in point of law the evidence was admissible, even upon the narrowest ground; for the conversation between Zancla and the witness fell within the strict rule of a declaration accompanying an act, and was consequently evidence to prove that act. But he did not mean to rest his argument upon that narrow ground. He would beg leave to put a case to their lordships. Suppose any such language as the following had been used by Zancla to the witness — "Here, you see, I have got 80 double golden Napoleons, and if you will only do as I have done, you shall receive as much, or more."

Mr. Solicitor General said, he felt himself bound to interpose. It was surely most irregular that a counsel should suggest the answers which the witness was hereafter to give, by putting supposed cases.

Mr. *Williams* wished to know how it was possible for him to make the House understand the nature of the conversation tendered in evidence, unless he was permitted to suppose such a case? He would suppose, then, that the conversation was in substance, a recommendation on the part of Zancla to the witness to go and make a deposition against the princess, and an assurance, that if he had any thing to say against her, he would obtain as large a sum of money as himself.

Mr. Solicitor General said, he must object to this mode of proceeding.

Mr. *Williams* said, in reply, that the judges, in delivering their opinion that day, had said that on a trial for a conspiracy it was competent for the party to begin at whatever end of that conspiracy they thought proper. The usual practice, they said was, to begin with evidence of a general nature, showing the existence of the conspiracy, and then to adduce the details, bringing it home to individuals. His object now was, to show, that an opinion prevailed in Italy, that if witnesses came forward against the Queen, whether right or wrong was their testimony, they would be profitably rewarded. That was a material fact in the contemplation of the case. To establish the conspiracy it was therefore necessary to take the declarations of persons in detail. It would be impossible but by individual declarations to arrive at a general result. From the opinion of the Judges it was open to him to prove, that these prevalent impressions not only existed, but were acted upon by persons, inducing them to come forward as witnesses. Under these grounds, the examination which he was pursuing was evidence as far as it went. Besides, here it was not an abstract supposition. They had traced the witness and Zancla from Venice to Milan, there to the house of Vimercati, and thence again to colonel Browne's, where Zancla received the Napoleons. Here, then, were facts on which to append a case to which a great degree of materiality attached. The fact of a conspiracy could not be proved *per saltum*, but by progressive steps, according to the very doctrine that day laid down by the learned Judges.

Mr. *Tindal* followed on the same side. He contended, that the question ought to be received in evidence; first, upon the ground of agency, and of the connexion between Vimercati and Zancla. The question of agency being established, he had a right to prove the acts and declarations, without being compelled to produce the agent himself. Wherever crime was imputed by the agency of third parties, from the showing of the acts of that party, the agency was inferred. Who ever heard in election cases, where the affirmative of bribery was to be established, of calling the agent to prove the act of bribery? It was quite sufficient to prove the character of agency; then to trace the acts, and

having done so, to affix the entire upon the principal. Here they had a stage-manager invited from Venice to Milan; a sum of money, amounting to more than the necessary expense, was deposited at the office of the diligence, in itself an extraordinary fact. When arrived at Milan, the witness accompanied Zancla to colonel Browne, then to Vimercati, acknowledged agents, and again to colonel Browne's house, where Zancla received eighty double Napoleons. Such circumstances were enough to establish that Zancla, who conducted the witness from Venice to Milan, and was traced to acknowledged agents, was himself an agent of those parties. Next, on the ground of its being proof to establish a conspiracy, it was to be considered as a substantive fact, from which the existence of the conspiracy was to be inferred. It might be impossible to establish that by one separate and distinct fact; but when found to adhere and cohere with other facts, its existence could be inferred, and the matter traced to the author of the whole. From the number and weight of these facts, and their connexion with each other and the parties, the conspiracy can at length be established. In the case of the King *v.* Stone for high treason, a letter was allowed to be received in evidence, though such letter had never been written, authorized, or seen by the defendant;* it was, however, admitted, because it was written by one of the parties proved to have been engaged in a common design. In the present case they had traced the connexion of Zancla with Vimercati and Browne, who were now acknowledged agents. In this view, he contended their lordships were bound to admit the evidence, as one of elements, out of which the conspiracy was formed.

Mr. Attorney General, in reply, intreated the House to pause before it admitted this evidence, and see the importance of adhering to the ordinary rule of law, which was fatal to the admissibility of this question. They had now heard that they were to be called upon to admit as evidence in this cause, the prevalent reports which might have been circulated in Italy, because it was possible they might have made an impression on the minds of the witnesses. The House would now clearly see the extent to which the other side wished evidence to be received. No man could in future be safe if it were allowed; and it was his duty to object to it, when the object was to substantiate so foul, so heinous a crime as conspiracy. It was admitted by the counsel for the Queen, that they had not yet laid even the foundation for this species of testimony, and they claimed credit for connecting it with the case hereafter. But persons were to be presumed innocent rather than guilty, and the House was bound so to consider Vimercati and colonel Browne, until, by distinct legal evidence, and not by vague declaration, they were shown to be otherwise. Why, at all events, did not his learned friends call Zancla? His agency must be proved, before his declarations could affect any of the parties, and that agency could be established only by acts, and those acts must be adopted by the principal. Here nothing was attempted to be proved but the declaration of Zancla, in order to show, that he was the agent of colonel Browne and Vimercati. If the House let in this evidence, they must go still farther—it must receive all the prevalent rumours and opinions existing at the time in Italy; because, by possiblity, they might have had some influence on the mind of the witness at the bar. If this had been an indictment, it would have been the duty of counsel to take the objection, and in this proceeding it was no less his duty to do so because a false impression might be produced—the statement of what could be proved might go forth to the world with nearly the same effect as the actual evidence. Colonel Browne and Vimercati ought not to be convicted upon mere suspicion and inference. What the witness had already stated amounted to nothing. He most earnestly entreated their lordships, before they decided, to receive the evidence, and thereby to deviate so widely from all the established rules of evidence, to consider that the inquiry, in that case, must be interminable. It had been avowed by the counsel for the Queen, that they should bring forward testimony to all the rumours and speculations afloat in Italy; and if they were allowed to go to this extent, there was no safety in future, for the life, character, and property of any man. A floodgate would be opened to testimony such as had never been brought forward in any case since the beginning of time. The hypothesis was, that at some time or other, Zancla would be connected with the supposed parties to this conspiracy;

* See Howell's State Trials, vol. 25, p. 1269, and the Note thereto.

but the accuser had a right to demand that the connexion should be established in the first instance. The objection he had urged was not merely technical, it went to the very foundations of truth and justice, and depended upon rules of law that to this day had been held sacred.

Mr. *Brougham* said, that he had no right to reply—he only wished to explain.

Mr. Attorney General.—I object, my lords, to this explanation.

Mr. *Brougham.*—I only beg to say that we do not attack colonel Browne.

The *Lord Chancellor* said, that three grounds had been urged for receiving this evidence:—1st. That testimony might be given of general impressions abroad; but this was the first time he had ever heard of such testimony being offered. Secondly, it was asserted, that agency had been established. He could not conceive on what ground the declarations of Zancla, when he came down stairs to the witness, could be admitted as the proof of what had passed up stairs. If this were to be proved, at all events it must be proved by Zancla himself, unless the rule that the best evidence that could be obtained should be adduced were completely reversed. The third point urged was, that this might in the result turn out to be evidence of a conspiracy; but here again he knew of no case where such had been allowed, and where it was not required that the party producing the evidence should connect it more immediately with the charge. For these reasons, he thought that the objection urged by the attorney-general ought to prevail.

Lord *Erskine* said, he entertained considerable doubts upon the subject. He agreed that this question ought to be viewed as if the objection had been taken on an indictment; and he admitted also, that before such evidence could be entered upon, counsel ought to explain its object, and to state what he intended to attempt by the production of the witness. If the proof failed, no party would be affected by it. It was asked, if this were a connected chain of testimony? It might be so; but as yet the House only saw one of the links which hereafter might be connected, and closely connected with colonel Browne and Vimercati. The question here was, whether the declaration and explanation on the part of counsel had been sufficient to bring the case within the decision of the judges. The noble lord then referred to what had occurred on the trial of Hardy, in 1794: he mentioned various circumstances connected with that proceeding, in order to show that the attorney-general of that day, the lord-chancellor of this, had been allowed to state what he should be able to prove against the conspirators, and then to proceed to the proof of it, step by step, without, in every instance, showing the precise connexion of the evidence with the parties accused. It had turned out, that the prosecutors could not connect the links; at least, so the jury found, and a verdict of acquittal was the consequence. The attorney-general had to-day complained that on such evidence as that offered, a false impression might go forth to the public to the prejudice of colonel Browne and Vimercati; but when men were on trial for their lives, no such objection was allowed; the evidence was allowed to weigh what it was worth for the time, and if it was not brought home to the party, a verdict in his favour was the consequence. His lordship did not see why a different rule ought to prevail in this case. If a conspiracy existed to defame and degrade the Queen, before it was proved, some opening ought to be made at the bar, and the question, as he had observed, in this case, was, whether the explanation that had been given, fell within the opinion given by the judges.

The *Lord Chancellor* observed, that in his view this point required much consideration, though he was quite satisfied, that if his noble and learned friend looked again at the case to which he had referred, he would entertain more doubt than he had expressed. The effect of the cases of Hardy, Stone, and others, had been collected in Mr. Phillipps's work on Evidence, which did the learned author so much credit, where it was distinctly laid down, that the separate declarations of conspirators rendered the whole responsible; but then they must first be shown to be conspirators, and their declarations must be proved according to the regular forms of law. Hardy's trial had occurred so long ago, that until he refreshed his memory regarding it last night, he had forgotten all the circumstances, excepting that he made a tedious speech, which very nearly killed himself, and quite sickened his hearers. Having referred to it, however, he found that the position taken by his noble and learned friend was by no means borne out. If A. B. and C. D. were both proved to be parties to a con-

spiracy, then E. F. might be examined as to the declarations of C. D., which would also affect A. B., but the testimony of E. F. could not be received until C. D. was shown to be connected with the conspiracy. Here if colonel Browne and Zancla were proved to be conspirators the last witness might give evidence of the declarations of Zancla, but not until Zancla was proved to be connected with colonel Browne. His lordship here examined a part of the evidence on the point of conspiracy in Hardy's trial, referring particularly to certain letters from Martin to Margarot, and to the opinion of Mr. Justice Buller.* Here there was no evidence to connect Zancla with colonel Browne, though Riganti and Vimercati stood upon different grounds. On the whole, therefore, he felt satisfied that the question proposed could not be put to the witness.

Lord *Erskine* added, that what the learned lord had selected from Hardy's trial had no reference to the part to which he (lord E.) had alluded.

The *Lord Chancellor* begged pardon for interposing; but it might perhaps be as well if his noble and learned friend would take an opportunity of again reading the arguments in that case.

Lord *Erskine* replied, that he remembered all the main features of the case as well as if they had occurred yesterday. The question was, whether what was now offered to be proved might not hereafter be shown to be a link in a chain of evidence, showing that a conspiracy had existed to suborn witnesses against the Queen. In Hardy's trial, lord chief justice Eyre had allowed the attorney-general to bring forward evidence of particular facts, on the faith that they would afterwards be combined and united into a series. He (lord E.) did not mean to offer a decided opinion upon this point, but he thought the same liberty ought now to be allowed to the counsel for the Queen.

The *Lord Chancellor* had no objection to the opinion of the Judges being taken on the subject, and lord Erskine expressed his assent.

Mr. *Brougham* said, that the House might remember that he was not allowed to open the nature of the evidence upon this point.

Lord *Erskine* observed, that counsel ought not only to be permitted to open it, but were required to open it.

* See Howell's State Trials, Vol. 24, p. 451.

The *Lord Chancellor*, after exchanging a few words with the judges who sat near him, said, that though it might not be regular, he was authorized to say that the judges entertained no doubt that the evidence ought not to be received.

Lord *Redesdale* expressed his concurrence.

Earl *Grey* felt disposed to agree in the opinion given by the lord chancellor, and upon the three grounds that he had stated. General reports, he thought, ought not to be proved, and the agency of Zancla was not sufficiently established. As to the third point, whether it was proof of a general conspiracy, he felt bound to admit that Zancla was in no way shown to be connected with col. Browne, nor could evidence of his declaration be admitted. If Zancla were not connected, it was impossible that the House should hear from a third person what Zancla had told him in order to affect colonel Browne. Such being his opinion, he did not think any reference to the Judges necessary.

Mr. *Brougham*.—Will your lordships allow me to state—

The *Lord Chancellor*.—The House, I dare say, will have no objection to allow you to state what you wish to-morrow, but it is now four o'clock.

The Counsel were directed to withdraw; and the House adjourned.

HOUSE OF LORDS.

Thursday, October 19.

The order of the day being read for the further consideration and second reading of the Bill, intituled "An Act to de-"prive Her Majesty, Caroline Amelia "Elizabeth,&c.," and for hearing Counsel for and against the same,

Counsel were accordingly called in.

The *Lord Chancellor* desired Mr. Brougham to state those observations to the House which he was desirous to submit to their lordships at their rising yesterday.

Mr. *Brougham* humbly begged, that his lordship would be kind enough to let him know in what situation he stood, and whether he was to understand their lordships as having settled the point at issue, yesterday.

The *Lord Chancellor* desired Mr. Brougham to consider himself as being

placed precisely in the same situation as that in which he stood yesterday. He was therefore at perfect liberty now to introduce whatever observations he meant to have submitted yesterday at the time he was interrupted by the adjournment.

Mr. *Brougham* said, that he understood the sense of the House had been sufficiently marked upon the proposition under debate yesterday. He was, therefore, unwilling to press upon the House any arguments upon a topic which he considered, in point of fact, already decided. But what he had now to open was a different proposition from that yesterday taken up by their lordships.

The *Lord Chancellor* said, that before they could enter into a new proposition, they must decide upon that yet before them, which the learned counsel was wrong in assuming had been already decided. He would now put the question.

The Lord Chancellor having accordingly put the question, it was negatived; and the noble and learned lord then informed the counsel, that the question proposed yesterday could not, in the present stage of the proceeding, be put.

Mr. *Brougham* said, he had not the slightest desire to call in question the decision of their lordships, but he must beg leave to observe, that the question which had been put was not at all urged by his learned friend upon the grounds on which it was taken up in debate by the House, but upon very different ones, to which their lordships, acting upon the opinion pronounced by the learned Judges yesterday, must, without hesitation, be thought to accede. What he understood they had now decided was this, that he could not ask the witness Mioni, to tell the House what Zancla told him had passed between him and colonel Browne; that in short, no declaration of Browne could be given here in evidence, as related through another by Mioni, unless Zancla, with whom it passed, were himself produced to state it. This was, in fact, a question, which his learned friends, Mr. Williams or Mr. Tindal, had never for a moment raised. Neither of them, in putting the question to the witness, contended that it was for the purpose of proving what colonel Browne said to Zancla. That was the way in which their lordships put it, not the way in which it was meant to be put by his learned friends. The way, in fact, in which he wished to be understood as putting this question was, to show the general fact of the existence of a conspiracy; to shew it by the act of Zancla himself, through the evidence of Mioni. It was to go step by step, to show, in the first instance, not colonel Browne's agency, but Zancla's; and it was for that they called the witness Mioni.

The *Attorney General* submitted, that the course now about to be pursued was that of re-opening the question already decided by their lordships. This mode of proof was yesterday, in fact, argued from beginning to end. His learned friend had better state the question which it was his intention to propose, before he proceeded to argue upon it.

Mr. *Brougham* again denied that the question had been argued yesterday. His learned friend, Mr. Williams, had not been heard upon it, and therefore he was entitled to address their lordships this day. The question he meant to submit was not the particular act of colonel Browne, but the general proof that there existed a conspiracy. What he wanted to argue was the general question, and his learned friends, with the slipperiness of their nature, wanted to press him into their service, by saying that he was contending for a particular point of evidence, which he was not.

The *Attorney General* repeated, that his learned friend was evidently labouring to re-open a point already decided. The question yesterday put to the witness, their lordships had now negatived, and therefore all argument upon its admissibility was now superfluous. If his learned friend, as he indicated, meant to raise a new argument, it must of course be upon a new question. Let him commence by stating the question he meant to put; that was the regular course of proceeding. It was never before heard of in a court of justice, that a counsel when contending that any particular question should be put, should, instead of setting out with stating his question, commence by opening with an argument upon it. If his question referred to Zancla, instead of to colonel Browne, why not simply state what his question was?

The *Solicitor General* saw no ground for disputing the decision which had been come to on the question. His learned friend had therefore no right to suppose that the case was not decided yesterday. As to the conduct of himself and his colleagues in support of the bill, it had not

been marked by any of that uncertainty which was attributed to it. Their lordships had ordered them to appear for the bill. They had, at the commencement of the proceedings, declared that they would be guided, with regard to the reception of evidence, by the practice of the courts below. He and his learned friends, therefore, considered it their duty, when a question arose which appeared not proper to be put, to object to it. They stated their objection, and to doing that their duty was limited: if their lordships, however, determined to receive the evidence, he and his colleagues were bound to submit to the decision.

The *Lord Chancellor* wished the counsel for the defence now to state what course they proposed to take. He observed, that the course proposed to be pursued by her majesty's attorney-general was irregular. It was for the learned gentleman to state what the question was that he was desirous to put. If the attorney and solicitor-general should object to that question, the learned gentleman would then of course be heard in reply.

Mr. *Williams* hoped their lordships would allow him to say a few words. The whole of the unnecessary discussion of yesterday, about a case which had never been proposed or imagined by her majesty's counsel, arose from his being interrupted in stating what it was they meant to prove as to Zancla. He trusted their lordships would not leave the door open to a second misunderstanding and delay, but allow his learned friend to complete that opening statement which he (Mr. W.) had been prevented, improperly prevented, from making yesterday. He had not the slightest disposition to violate any rule which their lordships might think proper to lay down; but he repeated that he had been unduly prevented yesterday from stating what it was that he wished to elicit from the witness, and with which the argument of the learned gentlemen on the other side had nothing whatever to do.

The Counsel were directed to withdraw.

Earl *Grey* considered the question decided yesterday to be different from that now proposed. The learned counsel had stated, that he had been interrupted in his examination by the attorney-general before it was known with what view the question was put. Their lordships were now given to understand by the learned counsel, that they had evidence to prove Zancla a conspirator; that they wished to call witnesses to prove that fact; and that they had a right to do this in order to prove the general conspiracy. It seemed to him, undoubtedly, that this was a new point, and that, in consequence of the decision of the Judges, the counsel for the defence were entitled to go on with their case.

The Earl of *Liverpool* said, that it would appear to him a very anomalous course of proceeding, if counsel on either side were, after opening a case, allowed to go into new matter. The learned counsel for the defence had opened no case which, in his opinion authorized the course now proposed. If their lordships were to proceed in trying the case, they must refer to the original opening, and under that opening the witnesses were to be called. When any question arose which was objected to by the other side, it was for their lordships to determine whether it should be put; but he could not conceive that it would be right to open a separate case for the introduction of new questions. As to the opinion given yesterday by the Judges he must certainly admit that those learned persons stated that, in certain cases, questions relating to a conspiracy might be gone into, but they also stated that this was only to be done when conspiracy was opened as part of the defence. Now, was conspiracy opened in the present instance as part of the defence? As far as his recollection served him it was not. As nearly as he could remember, the words used by her majesty's counsel in his opening were, "I do not charge conspiracy; but if there were conspirators, their acts would have been similar to those which have taken place." In his opinion, therefore, the question could not be treated by their lordships as if the case of conspiracy had been comprehended in the opening.

Lord *Erskine* was ready to admit, that the question of getting from Mioni, what had fallen from colonel Browne in his conversation with Zancla, was very properly overruled; but the case now offered was a new case, namely, that of proving Zancla to be an agent in the conspiracy. This they had a right to do, either by beginning with the general evidence, and fixing the acts upon the individual, or by first proving the individual agency. Their lordships were to suppose a case of indictment for conspiracy, and then they

would see, that the evidence against the conspirators might be taken in any order which should be chosen by the counsel for the prosecution. He denied that a counsel was limitted by his opening speech as to the proof of a conspiracy. The conspiracy might come to his knowledge only a moment before he had concluded his defence. Was he then to be excluded from the proof of it, merely because the guilt of the prosecutor was not known till late in the proceedings? The question which the learned counsel for the Queen now wished to ask was, in his opinion, one that ought to be put. If they were prevented from doing this, he would put it as a peer, and their lordships might then overrule it if they pleased. If, on a question like the present, their lordships should think they were not authorized to decide, without first obtaining the opinion of the Judges, he thought they ought not to pass any act, not even a common turnpike bill, without availing themselves of the same assistance. No man could feel more respect for the learned Judges than he did. They had been the companions of his former years, and he knew how to value their opinions; but he contended, that on the present great and important proceeding, their lordships ought not, in every instance, to be governed by the decisions of the Judges. He had no objection to their opinion being given; he would rather act in conformity with, than in opposition to, it; but the examination proposed by the counsel for the defence ought to be gone on with; and for himself he must say, that without it, he knew not how to form an opinion on the evidence which had been given before their lordships.

The Earl of *Lauderdale* admitted, that it was competent for the counsel for the defence to put any question; and that the question of yesterday stood on a different ground from the present; but he could not see the possibility of going forward with this case, if counsel, before they put questions, were to be allowed to enter into a long argument on the course they proposed to pursue to be replied to by the counsel opposed to them, and then to reply to the objections by which they were met. He thought some rule ought to be laid down to guard against this, to prevent a debate being raised before a question had been put.

The Earl of *Darnley* felt it to be his duty to object to the doctrine laid down by the noble earl opposite. If he understood the noble earl, he had laid it down as a broad proposition, that their lordships were not at liberty, in the course of the present painful inquiry, to enter into any points, however materially affecting the case, which had not been opened by the counsel at the bar. Now, it appeared to him to be utterly impossible to go on with this extraordinary and unprecedented proceeding with any hope of doing justice, if the counsel were to be precluded from bringing forward any evidence which they might think essential, although it had not been stated in the opening. He had hoped and trusted that, long ere this time, a proposition, not from the side of the House in which he had the honour to sit, nor from so humble an individual as himself, but coming with authority, would have been made to put an end to this disgraceful proceeding. This was the more to be expected, seeing that new and extraordinary circumstances arose day after day, which cast discredit on the whole case. He hoped the hour was not far distant when he should hear such a proposition made. In the mean time it was their lordships' duty to allow the counsel for the Queen to produce, from time to time, such evidence as came to their knowledge, and was necessary for the case of their client.

The *Lord Chancellor* observed, that no man who acted as a judge could expect to be treated with respect, unless he showed respect to others. He therefore thought it right to state, that having found he had misunderstood the object of Mr. Williams, he was sorry that he had interrupted him. The communication which he had made, as he understood, in conformity with their lordships' wishes, to the counsel for the defence, that the question which they had asked could not be put in the present stage of the proceedings, would not preclude them from having recourse to a similar inquiry, nor even from putting that very question, at a future period. It had been decided by their lordships, that evidence of the proceedings of the Milan commission might be received at the present stage of the proceedings. He wished it should be remembered, that the humble individual who had then the honour to address their lordships, did not concur in the view which had been taken of this subject. It was painful to him to differ from their lordships, but feeling that though painful, it was his duty,

no apprehension of the calumnies and slanders of which he might be the object, should ever deter him from doing that duty. Their lordships having yesterday decided, that evidence of the alleged conspiracy should be received at this stage of the proceedings, he apprehended the decision they had come to on the question which had been objected to, was merely this, that that particular question should not now be put. What questions might be put, or whether that question (if put with a different view) might not be asked at a future period, might become matter of future discussion. He had no difficulty in saying, that evidence might now be offered on matters that had not been originally opened to them, as forming part of the defence; and it was not necessary for the learned counsel to state what persons he would call, or what particular persons could or could not say, but they had merely to make it known, that they meant to ask certain questions for the purpose of proving so and so, and then it would be for their lordships to decide whether the questions intended to be asked were proper to be put. At present he would say nothing on the nature of the evidence which had been given; but unless the view which his long experience had led him to take of it was extremely erroneous, the difference between the circumstances under which evidence of a conspiracy was usually received, and those under which it was not to be admitted, was as great as possible. He wished not to run away from the subject, but to look how the question really stood. A conspiracy might be formed to suborn witnesses, and yet no witnesses might be suborned. The conspiracy might be, nevertheless, of the most mischievous description. If they should find, that such a conspiracy had been formed—if this fact were once established, they must look with suspicion at all the evidence, even of that part of it to which the conspiracy did not appear to apply. But, to argue, as some of their lordships had done, that because some of the witnesses had been suborned, or attempted to be suborned, there was an end of the case, though it was supported by purer testimony on the part of the prosecution, and, as often happened, by evidence brought forward in support of the defence, was, in his judgment, a very inconclusive way of reasoning. He now understood it to be the object of the learned counsel to prove, that the witness had himself been concerned in the alleged conspiracy, and this, he apprehended, they were at liberty to do.

The Counsel were again called in.

Mr. *Brougham.*—May my learned friend, Mr. Williams, now proceed to state his view of the subject?

The *Lord Chancellor* said, that either of the learned counsel might address the House.

Mr. *Williams* said, he was yesterday about to examine the witness as to the purport of the declarations of Zancla himself. This was his object; and, inasmuch as it was impossible for him to do that without putting the preliminary question respecting what Zancla had said, he had put that question which had been objected to, and successfully objected to, by the attorney-general. He was not then allowed to open what he intended to prove; and it was supposed, that he was about to inquire into what Zancla had said respecting colonel Browne—a thing which had never once entered into his dreams. What he proposed to prove was this—that Zancla had told the witness that if he would depose to any thing against the princess of Wales his fortune would be made. To this the witness replied, "But how can I do that when I have never seen her?" Zancla would then be shown to have said, "Oh! as to that, I can take you to the Villa d'Este and the lake of Como—I can point out a spot where you can swear that you saw her royal highness and Bergami embracing, and that will be sufficient." The witness would then state what had been done in consequence; but that which he would prove was all between himself and Zancla, and had nothing to do with colonel Browne.

The *Lord Chancellor.*—State the question in the terms in which you mean to propose it.

Mr. *Williams* said, he could not put the whole of his intended examination in one question. He should ask the witness the question he put yesterday, following it up by what he conceived necessary in explanation.

The *Lord Chancellor* desired Mr. Williams to state what that question was.

Mr. Gurney, at the request of Mr. Williams, read several questions and answers immediately preceding the objection taken yesterday: the last question, with

reference to what passed between the witness and Zancla, was propounded in these terms?—"What did he say to you at that time?"

The question was about to be put to the witness, when,

The *Attorney General* said, he again objected to that question; and he thought the answer his learned friend had given to his objection that morning did not carry his case at all farther than it had proceeded on the previous night. His learned friend had said, that his course of examination would not open the conversation of Zancla and the witness with respect to colonel Browne. But their lordships must recollect his learned friend to have distinctly stated, that he would be able to bring home to colonel Browne the acts of another person. He, however, had a right to contend, that the whole of those acts, allowing them to have taken place, must be attributed to Zancla, without any connexion with the Milan commission. But his learned friend wished to show, from the declarations of Zancla, that he was employed by the Milan commission as an agent to suborn witnesses. Such evidence, he would maintain, could not be received in any court. It never was known, that an absolute agency was proved by evidence of the declaration of the agent; the agent himself must be called. The learned gentleman stated his great objection to be, that the declaration of Zancla, stated by a third person, even on the showing of his learned friend, could not be received. He himself must be called; or it must be shown whether he was authorized to do such acts as those that had been referred to; because it would be most unjust to make a principal accountable for acts which he had never given his agent liberty to perform. If their lordships looked at the way in which it was argued yesterday—most laboriously and ingeniously—by his learned friend, Mr. Tyndal, they would find, notwithstanding all the efforts that had been made to prove the contrary, that the question still remained the same, and that their lordships were, in fact, only considering the judgment at which they and the learned Judges had arrived yesterday.

The *Solicitor General* said, the manner in which he understood his learned friend, Mr. Williams, to attempt to prove, that the present must be considered admissible evidence in this case, was, first, by showing that a conspiracy had existed to suborn evidence against the Queen, and next by assuming that Zancla was one of the agents of that conspiracy. He admitted, that if it were established on the other side, that a conspiracy to suborn witnesses existed, and that this man was one of those conspirators, then every act done by him with reference to that conspiracy, and every declaration he had made respecting it, was most indisputably evidence in this case. But his learned friends had assumed the whole foundation of their argument. They assumed that there was a conspiracy to procure evidence against the Queen; and they also assumed, as part of their case, that Zancla was one of the conspirators. But he apprehended that, before they were in a condition to prove him to have been a conspirator, they ought to give evidence of the reality and existence of such a conspiracy; and then it would be competent to them to satisfy their lordships that Zancla was one of the members of the association. In support of this he would quote a passage from "Phillips's Law of Evidence" (a book that had been often referred to in the course of these proceedings), where the doctrine was laid down so clearly, that it was impossible for any person to misunderstand it. The passage was as follows:—"In prosecutions for conspiracies, it is an established rule that, where several persons are proved to have combined together for the same illegal purpose, any act done by one of the party, in pursuance of the original concerted plan, and with reference to the common object, is, in the contemplation of law, as well as in sound reason, the act of the whole party; and, therefore, the proof of such act will be evidence against any of the others who were engaged in the same general conspiracy, without regard to the question whether the prisoner is proved to have been concerned in that particular transaction. This kind of evidence was received on the trial of lord Strafford and of lord Lovat; on the trials for high treason at the Old-Bailey, in 1794; and in the case of Stone, in 1796; in which last case the rule was completely settled. In that case, evidence having been given sufficient for the jury to consider whether the prisoner was engaged in a conspiracy for treasonable purposes, it was determined that a letter, written by one of the conspirators, in pursuance of the common design (although the letter had not been traced into the hands of the

prisoner, or to his knowledge), was admissible in evidence as the act of the prisoner himself. The acts of the several conspirators, who are engaged with the prisoner in one common object, are evidence against him, though he may not have been directly a party to them; they are evidence, as acts connected with, and in conformity with, his own acts." All that he was desirous to do was, to produce a clear and distinct understanding of this question among their lordships; and if his learned friends had convinced them that there had been such a conspiracy as they spoke of, and that Zancla was a party to it, he did not stand there to contend, that this would not be evidence. But was there, in fact, before them any evidence which would convince any reasonable man of the existence of such a conspiracy? And if there were no evidence of that kind, still less did it appear that Zancla had been engaged in it. What did the evidence state? The evidence was, that Zancla came down from colonel Browne, with a certain sum of money in his hands, and that he had called on Vimercati at Milan. But was it therefore to be inferred, that he had been concerned in a malignant, atrocious, and abominable design to fabricate evidence against the Queen? Was it on such vague rumours as these that their lordships would fix this infamous crime on an absent individual? Were they, on such weak arguments, on facts of so slight a nature, to come to this conclusion, not only that a foul conspiracy had existed, but that this man was a conspirator, and that many honourable individuals were no less deeply implicated in effecting the base purpose which his learned friends had pointed at? The only points for their lordships' consideration were, whether the existence of such a conspiracy had been established, and whether Zancla was shown to have been connected with that conspiracy. If their lordships were satisfied of the truth of these facts, then the objection of himself and his learned friend was at an end. But he did conceive that the admission of such a course of examination was quite inconsistent with the dictates of law, of common sense, of justice, and of humanity.

Mr. *Williams* was extremely anxious that this question should now be rightly understood, because it was very clear that yesterday it was wholly misunderstood. The attorney-general had, on that occasion profited of his own wrong, by stopping him in the course of his speech, for the purpose of applying himself to a case that never did exist, and of answering arguments that never had been used. He had never asserted, that Zancla was, by his declaration, to prove that any one of the Milan commissioners was privy to the conspiracy. Yet it was on that unfounded presumption that his learned friend proceeded, and had been successful in stopping him, when he was about to state what he really meant to give in evidence. That evidence, if he had been allowed to explain it, would have beaten down and destroyed the argument of his learned friend, raised as it was on the fallacious assumption, that it was intended to prove, by the means of Zancla, that colonel Browne was connected with the conspiracy—a circumstance which, at the time, he had not in his contemplation. The first part of the attorney-general's objection was never contended for; and with respect to the second part, if he understood the subject rightly, it appeared to him that, in arguing it, his learned friend had confounded the law of evidence. He had been addressing their lordships on the effect of the evidence, which effect could only be determined by hearing the evidence itself. His learned friend had confused two things, which, as a lawyer, he must have known to be essentially different. He had confounded the admissibility of evidence with the effect of evidence, when he should have known, that the admissibility of the evidence was the first thing to be decided, and that its effect was to be considered after it had been received. The connexion of the conspiracy with the Milan commission was not the question they had now to grapple with. Whether that commission was a party to it—whether it was even aware of its existence or not—he still contended, that he had a right to prove that there was a conspiracy. Suppose it had only resulted from the appetite for gain having been excited in the Italians by an idea of the lucrative nature of the speculation; that persons, be they who they might, had engaged themselves in suborning witnesses, and that it was not at all within the knowledge of the Milan commissioners—it would still be a conspiracy—the guilt would be the same as to all the parties who were engaged in it; its effect in this case would be the same; and therefore, he contended, he had a right to

any noble lord lay his hand on his heart in judging of the whole subject in issue, in deciding upon a bill to ruin the Queen, and say, that proof of such means having been used to obtain evidence against her majesty made no difference in his mind? But the Solicitor General contended, that it would make no difference at all, and that, whether proved or not proved, the facts were perfectly indifferent in the case. The door ought then to be opened for evidence, which, whether it affected colonel Browne, or Vimercati, or Zancla, showed the means used to obtain witnesses against her majesty. If it showed perjury, it would be a ground of pausing before their lordships came to any conclusion unfavourable to her majesty. But it had been said, and with due gravity, that we must assume conspiracy on both sides, because if subornation of perjury was resorted to, *non constat* that the Queen had not resorted to it, and procured it to be practised on the other side, in order to enable her counsel to make the objection that the evidence against her was all suborned and perjured. Let their lordships then take the evidence now offered, subject to that observation, and let that observation have its full force with their lordships when they came to weigh the whole evidence. There was one consideration which, if he might but mention it, would perhaps allay somewhat the ardour of this observation. He did not deny the possibility of such a conspiracy, nor could he deny that such a possibility affected a point of law such as he now argued; but did their lordships think it very likely to affect a bill of this kind? In the month of March, 1818, before any surmise arose of any charge against her majesty—before the Milan commission was appointed—before any steps were taken against her honour or dignity, the Queen was so provident as to provide for distant possibility, so astute as to prepare defence against a charge that was never made: she was so very circumspect, so extremely provident as to contrive, in March 1818, her defence to a bill which she foresaw would be brought into parliament in July 1820, two years afterwards,—a bill which the wisest of men never foresaw, and the wiser they were, the less could they foresee it. Yet she with the volume of the State Trials, Bennet's trial in one hand, and the volume containing Atterbury's in the other, said, in March, 1818, "I must beware how I can defend myself against the bill that is to be brought against me in July 1820. Learned counsel can do nothing without materials; therefore, I must contrive to inveigle Zancla into conversation, which will afford ground of objection to all evidence against me." This was something more than the most provident of mankind had ever devised. He did not deny the possibility of such conduct, but it was what lawyers called a remote possibility, and their lordships would not be apt to stand upon such a possibility in deciding this question. But after they should have heard the whole evidence, then would they be in a situation to judge of all the circumstances and facts given in evidence before them; and he begged that, when they arrived at that situation, they would not forget this remote possibility. He repeated, that they were not there to offer evidence against colonel Browne and the Milan commissioners. They were there defending her majesty; in that defence they were necessarily obliged to show the manner in which evidence was obtained against her majesty. If they could make out one fraction of a fraction of a case that colonel Browne, Vimercati, or Zancla, as agent for the Milan commissioners, suborned any part of the evidence, it was most important to the defence.

The *Attorney General* said, in reply, that whatever misunderstanding might have existed yesterday, his learned friends could not complain that they had not now argued on every view which they could take of their proposition. But if he had misunderstood his learned friends yesterday, or if their lordships had misapprehended their application, why had they not interrupted him? He denied that there had been any such misunderstanding on his part, or any misapprehension on the part of their lordships. He called back to their lordships recollection, that his learned friend, Mr. Williams, had yesterday contended, that rumours, reports, and even opinions, ought to be received in evidence, and that in that stage of the proceeding, Zancla's evidence was therefore admissible. His learned friend, Mr. Brougham, had now given up Mr. Williams's argument, and for the last half-hour had been contending for the admissibility of this evidence on other principles. Their lordships were to abandon the rules on which they had hitherto proceeded, according to the declamation and address of his learned friend

Mr. Brougham. It was now a conspiracy, unconnected with the Milan commission, a conspiracy of Zancla's that they proposed to prove. It was not acts of those who had been employed in collecting evidence or of their subordinate agents that were offered in evidence. Their proposition now was, to prove a conspiracy on the part of one of whom they had given no notice hitherto. Although A. and B. should never be connected, or brought together, yet their lordships were called upon to receive evidence of unconnected, insulated acts, to establish a conspiracy of which there was no evidence, and to prove a connexion of which there was no proof. What would have been said, if he had opened as a part of his case, what had been heard and what had been said respecting the Queen? He would have been met, and properly met by the objection, that it was not evidence. What would have been said, if he then should say, "Receive this evidence, acting as legislators, for though it may not be proved to be connected with her majesty's conduct, it may have considerable effect on your minds, and on the judgment which you are to pronounce?" The rules which their lordships had hitherto adhered to—rules which had been found in the courts below to be the best calculated for substantial justice—they were called upon now to abandon, because his learned friends could prove insulated acts of Zancla and another, in March 1819—acts not adopted by those who collected evidence, and not intended to prove any improper motives on the part of those who actually gave evidence. If their lordships admitted A. B., and C., to prove, not that suborned witnesses had been examined, but the subornation of witnesses not examined, it would be impossible for any prosecution to meet such a case as might be made in defence against him. His learned friend said, "Oh, we dont accuse colonel Browne, we don't accuse Vimercati; we are now only for the defence." This was the language of his learned friends now, because they found it convenient. This defence of their proposed mode of proceeding had been resorted to only within the last two days, and he could see the object of it. But they did mean to implicate—they had endeavoured to implicate—the Milan commission. His learned friend, Mr. Williams, had argued, that he (the attorney-general) had said they must call Zancla. He had not said so; but he had said, and still said, that if they meant to prove agency, they must call Zancla, and for this purpose Zancla was a perfectly competent witness. If they did not call him, they must call evidence to prove that his acts were adopted by the Milan commission, or by others for them. Where a co-commissioner was one of the persons implicated in the evidence, the evidence might be admitted as against all the commissioners; but no such co-commission was proved. In this case conspiracy had never been proved. First, the Milan commission was charged with conspiracy; then another; now it was only Zancla. In the courts below, evidence affecting a co-conspirator was admitted as affecting all the conspirators, but here no co-conspirators were proved to exist. It was shutting their eyes against the rules of law, and against the practice of the courts below, to say that, before a conspiracy was proved, they might call evidence to prove the acts of any one co-conspirator. How, then, stood this case? No evidence of a conspiracy was before them, yet evidence had been offered which could apply only after a conspiracy had been proved. His learned friend had argued against supposing a conspiracy in March 1818, respecting this bill, not thought of at that time, and this proceeding not then in contemplation: and now he offered evidence to prove the subornation of evidence at that time, in support of a measure which, according to his own hypothesis, was not then in contemplation. The case for the bill had been restricted, he would not say improperly, but it had been restricted within the strictest confines of law; and now they were called on to depart from those strict rules, because evidence was offered which might affect their judgment hereafter. But this ought to have been before thought of; either they ought not to have confined the case for the prosecution within strict limits, or, having done so, they ought not to depart from those limits. Whether their lordships acted judicially or legislatively—whatever rules they had adopted to be acted on judicially, they were to adhere to; and if on this occasion they departed from them in a legislative character, they would do the greatest injustice—if he might with submission say so; and if they did not adhere to rules which they had established and acted on hitherto, they would act in a manner contrary to all precedent.

The Counsel were ordered to withdraw.

The Earl of *Donoughmore* thought, that such evidence as that which had been offered could not possibly be received in any court of justice, unless that court were ready at the same time, to open the door to every species of testimony, whether connected or not with the subject of judicial inquiry. The counsel would then only have to say, "the public feel that there is a conspiracy, and we hope your lordships will be of the same opinion. We are going to examine a witness, and the questions we are about to put to him must be proper questions, because we say that they will prove a conspiracy." What, he would ask, had their lordships to do with hearing the acts of Zancla through the mouth of a third person? Why should not Zancla himself be produced, instead of being brought into court through the mouth of a witness? If such evidence were admitted, how could their lordships shut the door against an inquiry into the acts of any man at Milan, who might or might not be connected with the agents on the part of the prosecution? Their lordships had heard a great deal on the subject of a conspiracy. He was as willing as any man to admit, that their lordships had a most important duty to perform, when they came to weigh the testimony of some of the witnesses, because, undoubtedly, some of them had been proved to be of such a description, as called upon their lordships to look at their testimony with the greatest suspicion. It certainly appeared in proof, that there had been something improper in the conduct of the persons engaged in collecting evidence, and it was the duty of noble lords to weigh, with the most scrupulous attention, a mass of evidence, in which any suspicious testimony was to be found. But, were the learned counsel at the bar prepared to say, that their lordships ought to reject the whole of the evidence, because a part of it was not worthy of credit? Their lordships, acting in their judicial capacity, could not come to any such conclusion. It was a most absurd proposition, that their lordships ought to reject a whole mass of evidence, because some part of it did not appear to have any foundation in truth, and because some of the agents might be proved to have exceeded the line of duty which they ought to have observed. He would not say whether that was his opinion or not, but he would say, that he was not prepared to reject the whole mass of evidence upon such grounds. The agents in this prosecution had been charged with a conspiracy; but conspiracy was a hard word. Improper means were said to have been employed to bring witnesses to their lordships bar; but could that be called a conspiracy? A conspiracy had been alleged, but nothing had been proved, which was capable of convincing his mind that a conspiracy had existed. For the last four or five days they had been engaged in no other issue whatever. Every thing else had been forgotten, and the language of her majesty's counsel was, "we have no occasion for any more witnesses, we will turn the tables upon you altogether. Some of your witnesses have been discredited; we will, therefore, allege a conspiracy, and overturn the whole case." As one of the persons whose duty it would be to decide judicially in this proceeding, he would not suffer his mind to be called away from the real issue, by an allegation of conspiracy, however loud or frequent the cry might be either within that House or without.

Lord *Erskine* could not agree with his noble friend, that no evidence could be given of a conspiracy in this case. The contrary had been decided by their lordships, and the learned Judges had given an opinion upon the admissibility of general evidence to prove a conspiracy. Neither could he agree too with the learned counsel, that the existence of a conspiracy must first be proved, when the very object of the evidence offered was to prove that existence. If they objected to the evidence before the conspiracy was proved it would be impossible ever to prove a conspiracy. But the difficulty he felt was this:—Zancla was not a witness; he was not proved to be an agent; there was no act of his connected with the evidence in support of the bill. Zancla was not in any view sufficiently connected with the case, to admit evidence of his sayings and acts.

The *Lord Chancellor* considered, that if this question was allowed to be put, it would form a perfect novelty in the proceedings of that House—whether the present were regarded as a judicial proceeding purely, or as a legislatively judicial proceeding. No agency was established here, but it was alleged that a conspiracy existed. Now, if they were to inquire of persons from Italy whether

they believed so and so—if a conspiracy was to be proved by such means, he implored their lordships to consider where that was to end. It had been ably and powerfully stated by Mr. Brougham, as well as ably argued by Mr. Williams, that there might be certainties of such and such things being proved on one side, and no certainties of similar things being proved on the other side; but, what would any one say if such evidence had been offered as he was just going to state—and when he put the case so, for the sake of argument, he begged their lordships not to infer, that any such thing could have been proved. At the opening of the bill, it had been insinuated strongly, that the illustrious person who was the object of the bill had found means of dismissing from her establishment all the English attendants who had accompanied her from this country, and had introduced into her family a person of the name of Bergami; and it was intended, no doubt, that a conclusion as to her purposes was to be drawn from these circumstances. These persons, alleged to have been so dismissed, had been called to the bar, and had stated the grounds that induced them to leave her royal highness: they had stated, that they quitted her service on grounds operating on their own minds, and that they had not been dismissed by her. Now, he submitted, what would have been thought if the supporters of the bill had called persons to their lordships bar, to prove, that Bergami had been heard to say things which showed that her majesty had dismissed these persons for the purposes stated in the bill? If the charges in the bill were to be met by general declarations as to the conduct of persons not connected with the business, their lordships might get rid of the bill; but they would get rid of it at the expense of all those protections which were the great safeguards of public justice.

Earl *Grey* said, he understood it to have been already decided, that evidence of a conspiracy to suborn witnesses might be given, and that the only question before the House was, whether the evidence now proposed to be given was legal? He confessed that his opinion concurred with those which had already been delivered, and that, under all the circumstances, he thought the evidence offered at the bar could not be heard. In concurring generally with the opinion of the noble and learned lord, he could not, however, agree with that part of his argument, in which he had put the possible case of evidence being tendered to prove the declarations of Bergami as to the conduct of the Queen, which could not under any circumstances be admissible. The case put by the noble and learned lord was not at all analogous to that now under the consideration of the House. The evidence proposed to be given, of the declarations of Zancla, was intended to prove, that Zancla was engaged in a conspiracy, but those declarations could not be given in evidence until Zancla was connected, in some way or other, with the conspiracy which was alleged to have existed, for the purpose of suborning testimony against the Queen. No such evidence had been offered, to prove that Zancla was connected with such a conspiracy, or, indeed, that he was connected with any person whatsoever. A conspiracy, *ex vi termini*, implied a combination of different persons engaged in the prosecution of some common design. But here there was no evidence either to connect Zancla with a conspiracy against the Queen, or with any other combination of persons. The only circumstances proved were, that Zancla went to the houses of colonel Browne and Vimercati, who were admitted to be agents, and that he came out of the house of one of them, and showed the witness a sum of money. This certainly did not appear to be a sufficient proof of connexion, to let in evidence of his declarations to the witness. He did not stand in the same situation as those persons who were admitted to be agents. Restelli had endeavoured to suborn the witness—Riganti had endeavoured to suborn the witness—Vimercati was proved to be intimately connected with colonel Browne, and the previous evidence had shown that Restelli and Riganti had in some degree acted as agents, though not according to the strict rules by which agency was established in the courts below. If the same degree of connexion had been made out in the case of Zancla, he should have thought the evidence perfectly admissible; but as that connexion had not been proved, he was of opinion that the question could not now be put. He wished this to be distinctly understood, because if any fact tending to connect Zancla with the conspiracy could be established, the evidence of his declarations ought still to be received.

Then Counsel were again called in, and

were informed, that the question proposed cannot now be put.

Then *Antonio Mioni* was again called in, and asked,

Mr. *Williams*.—You stated yesterday that you went with Zancla from Venice to Milan? I did.

Did you return to Venice with Zancla? Yes, but before, I went to Mantua with him.

Did you leave Milan with him, did you go from Milan together? I left Milan together with Zancla.

How many days were you at Milan? Two days.

What is the distance from Venice to Milan? About 185 miles.

Did you pay your own expenses, or did any one pay them for you? I did not pay even one hundredth part *(centesimo)*, Zancla paid for the whole.

What do you mean by a centesimo? The hundredth part of a livre.

Had you any business of your own at Milan? None.

Had Zancla any business in his profession of a stage-manager, to your knowledge, at Milan? None, only for this object.

What do you mean by "this object?"

Mr. Attorney general objected to the question, if his knowledge arose from the declaration of Zancla.

The Counsel were informed, that they might ask, whether the witness knows, otherwise than from the declaration of Zancla, what his object was.

Mr. *Williams*.—Did you see him transact any business of any kind, except going to the house in the Porta Orientale and the street Ruga Bella; did you see him do any other business but that? He went also to look after a broker, or under manager of a theatre *(sensale)*, together with a person of the name of Coniberti.

Did you see him do this; did you go with him to this place, or was it only what he told you? We found him at the coffee-house.

Whom? Zancla and I went; we went to the coffee-house at Milan.

You recollect stating yesterday, that you saw Zancla come down with a number of Napoleons in his hand? Yes.

At that time did he make you any offer?

Mr. Attorney General objected to the question. It was to the very same effect as that which their lordships had just decided should not be put.

The Witness was directed to withdraw.

Mr. Brougham stated, that if the late decision was understood to apply to this, he would not press the question.

The Counsel were informed, that the late decision was considered as applying to this.

Mr. *Brougham*.—Am I, then, to understand that the decision of your lordships is to apply to all other evidence which we may be ready to adduce, of similar offers and similar attempts having been made to suborn witnesses?

The *Lord Chancellor* said, it would be infinitely too dangerous for the House to give an answer to that question; because the House might see a material difference in the circumstances, which appeared to be similar to the learned counsel. The House could only decide upon each case as it arose.

Mr. *Brougham*.—We can tender no other kind of evidence which can bring the case of conspiracy nearer to the Milan commission, than that which your lordships have been pleased to reject. Restelli has been sent out of the country; we have not Riganti to produce; and Zancla, for any thing we know, may be in the green-bag. There is no process of this Court by which we can compel the attendance of these persons. All that we can do we are ready to do; but your lordships seem to say, that all we can do is of no avail. I understand your lordships to say, that the proving such acts on the part of Zancla, and other persons in the situation of Zancla, as we are able to prove, that the calling upon colonel Browne, the bringing out of money from his house, and showing that money, as a bribe received to give evidence against her majesty, are circumstances not sufficient to connect the bribery with the agents of the Milan commission. If so, I can only say, that you thus cut off the clue of our case. We can, situated as we are—Restelli being withdrawn from us, and Riganti beyond our reach, produce no stronger evidence than that which we have tendered, and your lordships have thought proper to reject. If such is the decision of your lordships, then we need not carry farther the line of evidence upon which we have entered.

The *Lord Chancellor* said, the only observation which he felt himself at liberty to make, without the authority of the House, was, that the question of calling other witnesses must be left entirely to the discretion of the Counsel, and he was sure it could not be left to better discretion.

The Witness was again called in, and examined by the *Lords*.

Earl of *Lauderdale*.—When you saw the Napoleons in Zancla's hand, were they loose, or in a bag, or in paper? He had a hand thus full, and he has a large hand.

Had you any concern with the theatre at Pesaro? No other but that I have written to her royal highness, informing her——

Mr. *Brougham* desired the interpreter to stop. That answer was not evidence.

The Earl of *Lauderdale* thought they ought to hear the whole of the answer before it was objected to.

Mr. *Brougham* said, it had been the uniform practice to object to an answer when it

came to that point at which it was irregular. He had not interrupted the interpreter till he came to,—"I have written to her royal highness, informing her"——

The *Lord Chancellor*.—You are right, Mr. Brougham.

The Earl of *Lauderdale* said, the answer of the witness was no answer to his question.

The *Lord Chancellor* remarked, that that was a different thing altogether, and the question might be repeated.

Had you any concern with the theatre at Pesaro? Never.

Earl of *Carnarvon*.—Do you know whether Zancla was ever in the princess's service? I do not know.

The Witness was directed to withdraw.

Then *Domenico Salvadore* was called in, and having been sworn, was examined by Mr. Brougham as follows, through the interpretation of the Marchese di Spineto:

What countryman are you? Of Trevizo.

What business or profession do you follow? The profession of literature, both Italian and Latin.

Where do you live? At Lausanne, in Switzerland.

Were you at Morge in December, 1817? I was in the year 1818.

Did you see Sacchi there? I saw him in that year.

Did Sacchi hold any conversation with you on the subject of the process against her royal highness? He did.

Did he give any counsel to you upon that subject, or make any application to you?

The *Attorney General* objected to this question, upon the ground that the declaration of Sacchi, given by another person, was not admissible under such circumstances, Sacchi not having been proved to be an agent. If his learned friend intended to contradict Sacchi by the evidence of this witness, it would be the most proper method to point out that part of Sacchi's evidence which he meant to disprove.

The witness was asked whether he understood English, and having answered that he could read it, but not speak it, he was directed to withdraw.

Mr. *Denman* said, that his learned friend's objection seemed to be, that he had put a question to the witness as to what Sacchi had said to him, without previously putting questions to Sacchi himself, after which a contradiction might be given. That was not his object. His object was, to show, that Sacchi, who acted for the Milan commission in the procuring of witnesses, made application to the individual who had been now called to the bar; that he had told him, that the persons who contributed to the conviction of the princess of Wales would make their fortune, and had advised the witness, who had known nothing of the princess of Wales, to become a witness against her. The pages which established the agency of Sacchi, were pp. 448 and 449.* It would be seen in the first-mentioned page, that he was asked, whether he had been in Switzerland. He said, that he had been in Morge and Colombier; that he had made himself known to all; that he had 50 Louis at a banker's; and being asked whether he had ever represented himself to have more, that he did not remember. He then went on to say, that he fetched mademoiselle Demont from Switzerland to Milan. He was asked whether he went to prevail upon her to go to Milan, to which he said, he did not go to prevail upon her, but "to ask whether she would go or not." That he was desired to do this "by the commission at Milan;" that he came in company with Krous, who is a known agent of the commission, and that he received money in payment of his expenses for his journey to Lausanne, and for another journey, which he made in behalf of the commission to Scharnitz, a place where one of the facts charged against the princess of Wales was alleged to have happened. It was in consequence of this journey to Lausanne, that the evidence now offered was adduced. These were the facts which proved the agency, and on these he had no doubt their lordships would allow him to proceed to show his conduct while he acted as agent.

Mr. *Park* said, that his learned friend on the other side had not the slightest grounds for putting a question of this sort Calling their lordships' recollection to the opinion of the lord chief-justice, as delivered yesterday, he apprehended it was quite clear, that the evidence proposed was not sufficient to establish that agency which was necessary to enable his learned friend to put this question. Now, he apprehended that the question submitted to the Judges, embraced evidence of much greater authority than that which existed in the present case; for here there was not the slightest proof of agency to collect witnesses generally, but merely the fact of Sacchi's having been employed by the Milan commission to bring Demont from Switzerland to Milan. He thought,

* See Vol. 2, p. 1288.

therefore, it would be an outrage of justice to allow the question to be asked, without having put a single question, on cross-examination, with reference to the conversation alleged to have been held with the witness, or without taking any means of establishing agency, but by that ragged evidence which his learned friend had offered.

Mr. *Denman* submitted, with great deference to their lordships that the course he proposed to adopt was not at all inconsistent with the opinion which had been given by the learned judges. He referred to a particular proceeding, and to particular passages of the evidence, as that by which the character of Sacchi was affected; but he was quite sure, that their lordships would not be blind to all that had been proved, in the course of the evidence adduced at their lordships' bar, with regard to the characters and acts of those employed by the Milan commission. He might be permitted, indeed, to say, that it would be worse than blindness, and totally inadequate for any purposes of the detection of a conspiracy, if they did not connect the whole of what was proved against Sacchi with those passages of the evidence to which he had adverted. When he talked of a Milan commission, their lordships must be sensible that he was no talking of an abstract idea, but of a commission which was known actually to exist. It was not by looking at what his learned friend (Mr. Parke) had called the ragged evidence affecting Sacchi, that that existence was to be traced, or its acts to be proved; but they were not to forget the applications to witnesses which had been made through Vimercati and Riganti—and they were then to connect all that was now charged to have so been done with the result of the evidence which their lordships had already heard. And then, as for the connexion of Sacchi with the Milan commission itself, if their lordships looked at his journey to Scharnitz, at which place one of the circumstances charged against the Queen was alleged to have taken place, he thought it would be quite clear, that it was connected with what transpired yesterday, in the course of evidence, relative to Riganti. Taking, then, the whole of the evidence together, and referring to the acts of Sacchi, and the result of his cross-examination, he did not apprehend that there could be the slightest possible doubt, either that an absolute proof of agency were made out, or sufficient ground laid to let their lordships into proof of the authorized acts of the agents of the Milan commission. He did not mean to say, that that commission was proved to have authorized the acts of its agent to the whole extent which they had been pursued to; but, if it were proved, that an agent for certain purposes had been going about the continent, applying his agency to those purposes which he was shown to have applied them to, he was sure their lordships would not deny, that the question propounded was one most proper and necessary. It was calculated to prove a certain act on the part of one of the agents of the Milan commission; and, with respect to the princess, or her interests, it could make no difference whether or not that act proceeded under its authority. Indeed, if the objection which had been started was to stand, the conduct of the Milan commission itself, supposing such objection adopted by their lordships, would be entirely excluded from their lordships observation. But if Sacchi was found employed at Lausanne and at Scharnitz in the way he was ready to prove, could their lordships refuse to inquire into the whole of the circumstances? If he could prove, that the agents of that commission were ever authorized to do acts of bribery, could he be told that they must be proved in a way less doubtful than that which was the object of his question? If the acts of the Milan commission were proper to be inquired into, not only as proving acts of active agency in the commission itself, but as showing the objects of those employed under it; by the same rule, both in law and in common sense, it was equally competent for their lordships to inquire what those well-known and recognized and active agents had been doing, for the purpose of attacking the character and conduct of the princess of Wales. The learned gentleman concluded by protesting against the objection, which might, with equal reason, have been applied to the exclusion of any other evidence on the part of her majesty, against the evidence adduced in support of the bill; and declaring, that this question, and questions of a similar character, must be allowed, before they could hope, effectively, to defend the cause and interests of her majesty.

The *Lord Chancellor* asked the counsel for her majesty, whether the whole of the evidence upon which they relied to prove Sacchi an agent, was contained in pages

448 and 449, and informed them, that if he was an agent, what he had done as an agent might be admitted; that if it was meant to affect him as a witness, the question arose, whether he should not have been asked to that fact; and that if that was the view in which the evidence was offered, Sacchi might be called back, as another witness had been, for the purpose of being asked the question.

Mr. *Denman* referred to pages 344, 371 and 372 of the printed Minutes, as proof of the agency of Sacchi.

Mr. *Parke* observed, that his learned friend had dealt somewhat in generals with respect to Sacchi; but when he was asked for the proof and illustration of his remarks, as they were to be derived from the evidence, they appeared to be confined to the facts of Sacchi's having gone to Switzerland for Demont, and to Scharnitz, for what purpose did not appear; and therefore he apprehended that, the question, being without better foundation, it was impossible to admit it. How was it possible for their lordships to allow that any act done by Sacchi in the capacity of a mere courier, should be made a ground for causing other questions to be put to him upon a re-examination?

The Counsel were directed to withdraw.

The *Lord Chancellor* said, he would first call the attention of the House to the evidence on the Minutes, as far as it affected the agency of Sacchi. It was to be found in pages 344 and 372, and 448 and 449, in his own testimony and in that of Demont. His own evidence was to this effect:—

"Have you ever been in Switzerland? Many times.

"Were you ever at Morge? I have.

"Were you ever at Collombier? I have.

"How long have you been at Morge and Collombier at a time? About six weeks.

"Did you let it be known by every body there, that you were in that neighbourhood, or did you conceal yourself? I made myself known to all.

"Did not you fetch a certain mademoiselle Demont from Switzerland to Milan? I did.

"Did you bring her back? I did not.

"But you went to prevail upon her to go to Milan, did you not? Not to prevail upon her, but to ask whether she would go or not.

"Who employed you to fetch her or desire her attendance? I was desired by the commission at Milan.

"Whom did you come over to this country with? A courier called Mr. Krous, and my servant.

"Is Mr. Krous a regular messenger, one of the King's messengers, or only employed on the Milan commission business? I do not know.

"Have you made any other journies with Mr. Krous? I have not.

"How much money did you get by the Milan commission for your trouble while you were at Milan? I have received no other sum, except for the expenses of the journey that I made to Lausanne and return, and for another journey that I made to Lausanne and returned."

In the cross-examination of Demont was this evidence.

"Who desired you to go to England in order to be examined? Mr. Sacchi came to seek for me on the part of the commission.

"Who is Mr. Sacchi? An Italian gentleman.

"A clerk of Vimercati, or what; do you know what he is besides being a gentleman? No."

Afterwards she states, that he had been in the service of the princess, and the examination proceeds:—

"When he came for you, he was no longer in the service of the princess? No.

"And at that time he was in the service of the Milan commission, was he? I do not know in what service he was.

"Employed by them? I know that he came to seek for me or fetch me, but I do not know whether he was employed otherwise."

"What is your inducement to come? I was asked to come and declare the truth.

"By whom? By Mr. Sacchi, on the part of the commission."

Sacchi had been examined as a witness, and he would first consider the question, whether, considering Sacchi merely as a witness, the evidence proposed could be received in order to affect his testimony. Leaving, then, the imputed agency out of the question, he understood the rule of law to be, that a witness could not be called to affect the evidence of another

witness, unless the latter had been previously examined as to the circumstances intended to be alluded to. On that ground Majoochi had been called back. It had been impossible to recall Restelli, and therefore a greater latitude had been allowed to counsel in their examinations respecting his acts and declarations. But it would be recollected, that before this evidence had been received respecting the acts of Riganti, a witness had been called who had proved those acts. The case here was the same, because the question was, whether Sacchi, being a witness, evidence could be heard as to particular declarations of Sacchi, without first recalling him to ask him respecting that circumstance; and he apprehended, that if they meant to make Sacchi's declarations evidence, he ought to be recalled. As to the other question, namely, the agency of Sacchi, it depended not, as Riganti's had done, upon particular acts, but entirely upon the effect of his journey to conduct a witness to Milan; whether that constituted him an agent to collect evidence, or whether, his character being that of a messenger, he had been employed to induce witnesses to depose against her majesty.

Lord *Erskine* said, the question was, whether the evidence offered would not go to affect the credit of Sacchi? He was quite sure of this, that when he was in the habit of practising as an advocate, if it could have been shown that a witness who had stated any thing against his client, had been himself endeavouring to beat up for false testimony, he would have offered evidence on that subject, and that evidence would have been accepted. The proper course would be, first to prove the corrupt act, and then to allow the other side to bring their witnesses to contradict it.

Earl *Grey* said, that though, for the sake of avoiding interminable investigation, he had felt himself compelled, however reluctantly, to reject the evidence of acts done by persons in no way connected with the bill or its originators; yet in this case there was, if not strictly an agency, such a degree of connexion between Sacchi and the Milan commission, as made it very desirable to see what his conduct had been in their employment, and whether he had endeavoured to obtain corrupt evidence. There was, in his opinion, such a degree of agency as rendered the evidence admissible. But the ground for the admission of the evidence was much more strong in the second way, as it had been stated by his learned friend and as affecting the credit of the witness Sacchi. For how did the case stand? Sacchi had been examined as a witness, and if it could be shown that he had endeavoured to suborn other witnesses to give false evidence, it would not be unjust to suppose, that he, who would bribe others, would not scruple to bear false testimony himself.

The Earl of *Liverpool* said, he certainly should not object to the hearing of this evidence, but the only question was, whether they should hear it before or after Sacchi was called back? He did not think the evidence could be admitted on the ground first stated; namely, the agency of Sacchi. If Sacchi had been sent to Lausanne generally for witnesses, what he had said to persons to induce them to become witnesses, was good evidence; but it only appeared, that he was sent to fetch Demont, and it was too much to infer from thence a general agency. The case of Riganti was different; for he was sent to various places and to various individuals. As evidence affecting the credit of Sacchi, however, he thought it might be received, but Sacchi should be, he thought, previously called back.

The Counsel were again called in, and were informed, that the Question might be put.

Mr. Solicitor General requested to know whether he was to consider that the Question was permitted to be put, on the ground of Sacchi being an agent, or by way of contradiction to him.

The Counsel were directed to withdraw.

The *Lord Chancellor* said, it seemed to be the general opinion of the House, that he was to be called to affect the credit of Sacchi.

The Earl of *Lauderdale* said, it was very essential that it should be known on what ground the proceeding rested. It might be that the witness was called to affect the credit of Sacchi, or it might be something else, but it was essential they should know it.

The *Lord Chancellor* said, it seemed to be the opinion of the House that the question should be put; but he begged it to be remembered, that his individual opinion was, that the agency

was not proved, and that a declaration made by the witness could not be stated to affect his credit, till he himself had first been examined respecting it.

Lord *Erskine* said, he could not have a clearer opinion on any point in the administration of justice than he had on this, that if a witness had endeavoured to corrupt any other witnesses, evidence might be admitted to prove that fact. When evidence had been heard on that point, they might call Sacchi to contradict it; and he did not pretend to say which evidence would be best; but he was clear that the regular course was, first to hear evidence in affirmation of the corruption before Sacchi was called to contradict it.

Lord *Redesdale* said, it appeared to him, that the evidence was to be received, not to contradict any thing Sacchi had said, but to show that his conduct was corrupt, from which the inference would be to impute corrupt motives to him in giving his evidence. He conceived, that the counsel should be informed, that they were to offer evidence, not to contradict Sacchi, but to impugn, if they could, his credit, by showing the corrupt motives under which he has acted.

Lord *Holland* wished to see some motion proposed in distinct terms.

Lord *Grenville* thought the best way would be to call on the counsel to state the grounds on which they urged the admission of the evidence, or the objections which they made to it. The House would then have distinctly before them the grounds on which they have acted.

The *Lord Chancellor* said, it might be well that he should signify to the counsel that the House had heard enough as to the imputed agency of Sacchi, but were willing to hear arguments on any other grounds.

The Counsel were called in, and were informed, that the House consider the Question of the admissibility or non-admissibility of the Question proposed, as sufficiently argued upon the ground of the imputed agency of Sacchi; but that the House is willing and desirous that they should state any other grounds of the admissibility of this testimony, and any other grounds of objection to its admissibility, which they may think proper for the consideration of the House.

The *Attorney General* objected to the evidence, and to the question arising out of the argument upon it. The objection as affecting Sacchi's credit was perfectly untenable in point of law. The imputation was, that Sacchi had been concerned in such attempts at corruption as affected his credit and testimony. How was it competent for the learned gentlemen opposite to affect the credit of a party by collateral testimony, unless they were prepared to produce the record of some conviction? There was no rule of law so clear as that a collateral issue could not be tried upon the character or credit of a witness.

Mr. *Parke* maintained, that the ground of his learned friend's objection to the course of examination proposed by his learned friends on the other side was fully sustained by a passage which he should read from the high authority of Phillips in his "Law of Evidence." In page 299 of the last edition, it was laid down, that "the party against whom a witness is called, may disprove the facts stated by him, or may examine other witnesses as to their general character; but they will not be allowed to speak of particular parts of his conduct; for though every man is supposed to be capable of supporting the one, it is not likely that he should be prepared to answer the other without notice, and even if he should happen to be prepared to defend himself, such evidence might generally afford a very slight and imperfect test of his credibility. The regular mode is, to inquire, whether they have the means of knowing the former witness's general character, and whether from such knowledge they could believe him on his oath? In answer to such evidence against character, the other party may cross-examine the witnesses as to their means of knowledge, and the grounds of their opinion, or may attack their general character, and by fresh evidence support the character of his own witness."—Farther, this able writer stated, that "if a witness, upon being questioned whether he has not been guilty of a felony, or of some infamous offence, deny the charge, the party against whom the witness has been called, will not be allowed to prove the truth of the charge. Such evidence is not admissible, either for the purpose of contradicting or of discrediting him." Upon this authority, seconded as it was by general principles, by common sense, and by the uniform practice in the courts of law, he argued, that the counsel on the other side could not be consistently allowed to follow up

their proposition, to criminate the witness, Sacchi, without having previously asked him any question respecting the transaction that was to be made the foundation of the criminal charge, while Sacchi had no means of knowing that charge, or of defending himself against it.

Mr. *Brougham* expressed his entire concurrence with the general principles laid down by his learned friends on the other side. He allowed that it was not competent to him to attempt to discredit a witness by entering into proofs of particular acts of criminality, with regard to which that witness had not been previously cross-examined. He agreed also in the expediency and justice of the principle, that to discredit an adverse witness, no party had a right to impeach him for any act out of the particular cause in issue, and that if his testimony could not be positively contradicted, it only remained to call evidence to show, that he was not entitled to credit, which evidence, the party in whose favour the witness appeared, would be fully at liberty to rebut by opposite testimony, as Mr. Phillips had so justly observed. Those principles were so clearly recognised and so uniformly acted upon in the courts of law, that he had no intention whatever to dispute their validity. But, then, those principles did not at all interfere with the proposition for which he contended in this case. For here his object was, to examine the witness solely as to the conduct of Sacchi in this particular cause in which he had been a principal evidence. He would go along with his learned friend on the other side in the doctrine, that it was not admissible to produce any other evidence of the guilt of an adverse witness, than the record of his conviction. He agreed also with his learned friends, that it would not be consistent to admit evidence against Sacchi in this case for any act of which he had had no notice before. Such a proceeding would, indeed, serve not only to involve the House in the trial of a collateral issue, but would be a most unfair proceeding towards the witness. But was that the situation of Sacchi? Was he not fully aware of the charges against him for attempting to corrupt and suborn witnesses? Did he not derive ample notice upon this subject from the context of the cross-examination? Could he possibly, after that cross-examination, complain of the want of adequate notice of the intention to contradict his testimony and impeach his conduct in this cause? As to what Sacchi said, that he did not remember, there of course neither the testimony of Salvadore, nor that of any other person, could be adduced against him, as contradiction could only apply to assertions, and not to want of memory. But he proposed to adduce evidence, not only to contradict the assertions of Sacchi, but to discredit his character in the highest degree, by the nature of his acts, by proving him a most corrupt and active suborner of perjury. Of these acts he meant to show by evidence, that Sacchi had been guilty, not in any other cause, but in that which at present occupied the consideration of their lordships, and which he was enabled to prove had been got up by such agents and such acts as would be sufficient to corrupt the character of any cause.

Mr. *Denman* expressed his hope that that House would never lose sight of those principles of law which had been laid down by his learned friends on the other side, and subscribed to by his learned friend beside him. But he contended, with his learned friend beside him, that the proposed examination as to Sacchi was not at all inconsistent with those principles; and farther, that to prevent the question which on his side it was meant to put respecting Sacchi, would be to interfere with the administration of substantial justice. It was argued on the other side, that it was not competent to any party to examine a witness as to any charge against the adverse party or his witnesses, unless that party or witness had previous notice of such charge. But how could this doctrine be consistently maintained against an inquiry into charges which might have been discovered only in the course of the trial? Suppose that upon the very morning of the examination of a witness the attorney on the other side should have attempted to tamper with him, and that this attorney should have been also found to have offered money, and used other means to collect witnesses, could it possibly be held that no evidence should be admitted as to such conduct on the part of the agent, merely because he had had no previous notice of the charge? He maintained that such evidence, applying as it did to the rest of the cause, was perfectly admissible, and when given, it would be open to the other side to put the attorney into the box, and have his evidence in reply. He put a peculiar

case, with a view to illustrate the untenable character of the objection on the other side. But the principle of that case was applicable here, as Sacchi was an agent on the other side, and it was now proposed to cross-examine him as to facts, of which the Queen's counsel had been informed in the course of the trial. From the election which, under very peculiar circumstances, they were called upon to make, as to the cross-examination of the adverse witnesses, the Queen's counsel would have no opportunity whatever of informing the House as to the character of those witnesses, if they were precluded from examining Salvadore and others, whose testimony they were now prepared to offer. It would be recollected, that in consequence of the decision of their lordships against an application for a list of witnesses, the Queen's advocates had no knowledge of the witnesses on the other side until they were brought to the bar. He hoped, then, that that House would, in common fairness, allow them to produce in evidence the knowledge which they had since received with respect to those witnesses. It would appear from this evidence, that Sacchi was employed at Scharnitz and elsewhere, under the Milan commission, and that he was active in corrupting and suborning witnesses. Therefore he contended, that such evidence ought to be admitted. There was not indeed any sound distinction between the question which it had pleased the counsel on the other side to interrupt, and other questions which had already been admitted by their lordships.

Mr. *Parke* observed, that, from the manner in which his learned friend had dwelt upon the agency of Sacchi, it would appear, that he placed but little reliance upon the other ground urged by his learned colleague. In the analogy which his learned friend had drawn between Sacchi and an attorney, his learned friend would impress, that Sacchi was an agent, but that was a point which he thought had been given up through their lordships' decision. But, as to the other point, his learned friend, Mr. Brougham, had admitted, that evidence could not be offered to prove a charge against any witness, unless that witness had had previous notice of such charge. His learned friend alleged, that notice had been given to Sacchi of the charge to which the last witness was adduced in the course of his cross-examination; but he (Mr. P.) was at a loss to know in what part of the cross-examination of Sacchi any such notice appeared. He objected to the question of examination on the other side, upon this ground, that it was irrelevant to the issue before the House, and he rested his objection upon the authority of lord Ellenborough, in the case of Harris v. Tippet in Campbell's Reports. In that case, it was decided, that a witness should not be questioned whether he had not endeavoured to dissuade another witness from attending the trial. Upon this subject, Mr. Phillips thus observes in page 285 of his last edition: "the principal thing to be considered will be, whether the question is relevant to the points in issue between the parties. In an action for usury, it would be entirely immaterial and irrelevant to cross-examine the witness respecting other contracts supposed to have been made by the defendant, unless the witness had first said, that the contracts were the same." After such rules were recognised for the regulation of evidence, he was surprised at the course which the counsel for the Queen desired to pursue. Nothing had appeared on the cross-examination of Sacchi, to which the proposed question had any relation, and yet, without any notice to him, or affording him any opportunity of bringing forward evidence to rebut the charge, it was attempted, through the last witness, as appeared from the question, to make a most serious charge against Sacchi. This attempt, too, was the more extraordinary, as it was made after the cross-examination of Sacchi, as well as that of all the witnesses for the bill had been closed.

The Counsel were directed to withdraw.

The *Lord Chancellor* said, it was extremely difficult for him to be called on, day after day, to state what was the practice in the courts below, when he had been so long separated from those courts. He therefore wished, as in former cases, to consult the opinion of the Judges on the subject, as the decisions referred to by the learned counsel for the bill were not quite so apposite as to determine the judgment of the House in this case. *Nullum simile est idem*, as lord Coke wisely observed; and in order more clearly to inform the House upon this particular case, he proposed that the following Question should be put to the judges:

"Whether according to the practice and usage of the courts below, and ac-

cording to law, when a witness in support of a prosecution has been examined in chief, and has not been asked in cross-examination as to any declarations made by him or acts done by him, to procure persons corruptly to give evidence in support of the prosecution, it would be competent to the party accused to examine witnesses in his defence to prove such declarations or acts, without first calling back such witness examined in chief to be examined or cross-examined as to the fact whether he ever made such declarations, or did such acts?"

Earl *Grey* could see no objection to receiving the opinion of the Judges; but, whatever that opinion should be, he thought it material the particular inquiry should be followed up. Here was proof tendered, that a witness for the prosecution had not only corrupted others to give testimony in this cause, but had also given corrupt evidence himself. As to the question of agency, he by no means thought that question, as involved in Sacchi's conduct, set at rest; for, as the matter stood there were grounds for connecting Sacchi so with the Milan commission as to affix upon him an agency.

The Earl of *Liverpool* suggested whether, without taking the step proposed, there was not another way of avoiding both this delay, and the further discussion of the points of law. Would not the difficulties be got rid of by calling Sacchi, and laying the foundation for the proposed evidence of the other witness?

The Counsel were again called in, and were asked whether they had any objection to Sacchi being first called and asked to the conversation referred to.

Mr. *Brougham* stated, that he had no objection, if Sacchi was in a situation to be now produced.

Lord *Erskine* proposed, that the following Question should also be proposed to the learned Judges:

"Whether, if, on any trial in any court below, a witness is called on the part of a plaintiff or prosecutor, and gives evidence against the defendant in such cause; and if, after the cross-examination of such witness by the defendant's counsel, they discover that the witness so examined has corrupted or endeavoured to corrupt another person to give false testimony on such cause, the counsel for such defendant may not be permitted to give evidence of such corrupt act of such witness, without calling back such witness?"

On the motion, "That the said Questions be submitted to the learned Judges,"

The Earl of *Carnarvon* said, he thought there could be very little difference of opinion as to the fact that the House could and ought to go into the inquiry. The effect of proposing the question to the Judges would be, to place the House again in the awkward situation of taking the opinion of the Judges as they did yesterday, and then dissenting from that opinion when it was obtained. Whether Sacchi was an agent or a witness, they ought to know whether he had not himself been active in suborning other persons to give evidence similar to and confirmatory of his own. They could not do justice in the present case without going into that inquiry. He therefore did not see why they should divide the question into so many points, merely for the purpose of puzzling themselves and giving unnecessary trouble to the Judges. In order to obviate this, he should move as an amendment, to leave out all the words after the word "that" in the original motion, for the purpose of substituting these words, "the question proposed be now put."

Lord *Redesdale* said, that the arguments of counsel at the bar had produced a considerable effect upon his mind; and, though he had expressed a more positive opinion before, he now hesitated much to say that the question to the witness ought not to be answered.

The amendment was negatived.

The Questions were delivered to the lord chief justice, and the learned Judges requesting leave to withdraw to consider the same, leave was accordingly granted till to-morrow morning; and the House adjourned.

HOUSE OF LORDS.

Friday, October 20.

The order of the day being read, for the further consideration and second reading of the Bill, intituled "An Act to "deprive Her Majesty Caroline Amelia "Elizabeth &c."; and for hearing Counsel for and against the same,

The Marquis of *Lansdown* rose to call their lordships' attention to their order of the 21st of August, which was read by the clerk, and related to the daily attendance of the witnesses during the proceedings upon the bill. It was clear, that this order was intended for the purpose of

expediting their reception of the evidence, and obviating all unnecessary delay. The House would recollect, that late yesterday some discussion had arisen respecting a witness named Sacchi, and questions were framed for the Judges upon the point. The noble earl opposite had, however, with great propriety observed, that if no objection were offered on the part of counsel, the more expeditious course would be, to call in Sacchi, and by putting the question to him, to lay the foundation at once for the evidence contended for. This suggestion was immediately adopted by her majesty's counsel, who said, that if Sacchi were then forthcoming, they could have no objection; but that it would be quite otherwise, if his introduction were delayed. The learned lord on the woolsack, in allusion to what had fallen from Mr. Brougham, fully concurred in the distinction between the production of the witness at the moment, and the admission of any delay, for that purpose. No, attempt was, however, made by the counsel for the bill to call in Sacchi; indeed the House did not come to a decision which made it imperative that they should produce him. But the real fact, as he understood, was, that Sacchi could not at the time be produced, for he was neither in attendance, as he ought to have been, nor was he in London. It was, under such circumstances, most material that their lordships should repeat their order for the purpose of having it enforced in a more peremptory manner than it had hitherto been.

The Earl of *Liverpool* remarked, that the noble marquis was not altogether correct in the statement of what had taken place yesterday. His object, most certainly, in making the suggestion respecting Sacchi, was, to obviate the delay which must necessarily arise in preparing a question for the Judges, and afterwards affording these learned personages time for considering that question. Before, however, he had spoken of Sacchi, he had inquired whether he was in attendance, and was informed, that though not actually on the spot at the moment, he was at his lodgings, where, if necessary, a messenger would be dispatched to bring him. The noble marquis must, therefore, be misinformed, when he said that Sacchi was not in London.

The *Lord Chancellor* said, he certainly understood, that the counsel at the bar had objected to Sacchi being called up again [Cries of "No, no!"]. He did not mean to say that such was the fact, but he declared, upon his honour, that he believed it to have been so. It was with some surprise, therefore, that he had observed this morning, in one of the public journals, that the words "now, now," were stated to have been used by the counsel at the bar. It was possible, however, that the person who gave that report was much nearer the bar than himself and many other noble lords.

The Marquis of *Lansdown* said, he had not made the statement on his own authority. He had made inquiry before he called their lordships' attention to the circumstance.

An order was then made, directing, that the witnesses should in future be in attendance, *de die in diem*.

The Counsel were then called in.

Then the Lord Chief Justice of the King's-bench delivered the unanimous Opinion and Answer of the learned Judges to both the Questions propounded to them, severally, in the negative, and gave their reasons.

Lord Chief Justice *Abbott*.—My lords, the learned Judges have considered the questions proposed to them by your lordships. The first of those questions, my lords, is, "Whether, according to the practice and usage of the courts below, and according to law, where a witness in support of a prosecution has been examined in chief, and has not been asked in cross-examination as to any declarations made by him, or acts done by him, to procure persons corruptly to give evidence in support of the prosecution, it would be competent to the party accused to examine witnesses in his defence, to prove such declarations or acts, without first calling back such witness examined in chief, to be examined or cross-examined as to the fact, whether he ever made such declarations or did such acts."

The second question, my lords, is as follows: "Whether if on any trial in any court below, a witness is called on the part of a plaintiff or prosecutor, and gives evidence against the defendant in such cause, and if after the cross-examination of such witness by the defendant's counsel, they discover, that the witness so examined has corrupted or endeavoured to corrupt another person to give false testimony on such cause; the counsel for such defendant may not be permitted to give evidence of such corrupt act of such witness without calling back such witness."

My lords, the only material distinction between the two questions appears to be this, viz. that in the latter of the two, the supposed misconduct of the witness is assumed to have

been discovered after his cross-examination. In the courts below, wherein causes usually begin and end at one sitting, subsequent discoveries rarely occur in the progress of a trial; the parties on each side are expected to come at the commencement duly prepared with all the proof that may be relevant to the matter in issue, and with nothing more; and we think the only effect of a subsequent discovery would be, to allow the witness to be called back for further cross-examination, if still within reach, which may be done upon that or other reasonable ground. And we are of opinion, that according to the usage and practice of the courts below, and according to law, as administered in those courts, the proposed proof cannot be adduced without a previous cross-examination of the witness as to the matter thereof.

The legitimate object of the proposed proof is, to discredit the witness: now the usual practice of the courts below, and a practice to which we are not aware of any exception, is this: if it be intended to bring the credit of a witness into question by proof of any thing that he may have said or declared touching the cause, the witness is first asked, upon cross-examination, whether or no he has said or declared that which is intended to be proved. If the witness admits the words or declaration imputed to him, the proof on the other side becomes unnecessary, and the witness has an opportunity of giving such reason, explanation, or exculpation of his conduct, if any there may be, as the particular circumstances of the transaction may happen to furnish; and thus the whole matter is brought before the court at once, which in our opinion is the most convenient course. If the witness denies the words or declaration imputed to him, the adverse party has an opportunity afterwards of contending that the matter of the speech or declaration is such, as that he is not to be bound by the answer of the witness, but may contradict and falsify it; and if it be found to be such, his proof in contradiction will be received at the proper season. If the witness declines to give any answer to the question proposed to him by reason of the tendency thereof to criminate himself, and the court is of opinion that he cannot be compelled to answer, the adverse party has, in this instance also, his subsequent opportunity of tendering his proof of the matter, which is received, if by law, it ought to be received. But the possibility that the witness may decline to answer the question, affords no sufficient reason for not giving him the opportunity of answering, and of offering such explanatory or exculpatory matter as I have before alluded to; and it is in our opinion of great importance, that this opportunity should be thus afforded, not only for the purpose already mentioned, but because if not given in the first instance it may be wholly lost; for a witness who has been examined, and has no reason to suppose that his further attendance is requisite, often departs the court, and may not be found or brought back until the trial be at an end. So that if evidence of this sort could be adduced on the sudden and by surprise, without any previous intimation to the witness or to the party producing him, great injustice might be done, and, in our opinion, not unfrequently would be done, both to the witness and to the party, and this not only in the case of a witness called by a plaintiff or prosecutor, but equally so in the case of a witness called by a defendant: and one of the great objects of the course of proceeding established in our courts is, the prevention of surprise, as far as practicable, upon any person who may appear therein.

The questions proposed by your lordships comprise not only declarations made by a witness, but also, in the language of the first of those questions, "acts done by him to procure persons corruptly to give evidence in support of the prosecution," and in the language of the latter question, a discovery "that the witness has corrupted or endeavoured to corrupt another person to give false testimony in such cause."

My lords, we understand the acts thus mentioned, to be acts occurring in the ordinary mode and usual course wherein such transactions are proved in common experience to take place; because we presume, if the questions had related to an act done in an extraordinary and unusual manner, our attention would have been directed to the special mode and circumstances of the act, by the frame and language of the questions. Now such acts of corruption are ordinarily accomplished by words and speeches; an offer of money or other benefit derives its entire character from the purpose for which it is made; and this purpose is notified and explained by words, so that an inquiry into the act of corruption will usually be, both in form and effect, an inquiry as to the words spoken by the supposed corruptor; and words spoken for such a purpose do, in our opinion, fall within the same rule and principle with regard to the course of proceeding in our courts, as words spoken for any other purpose; and we do not therefore perceive any solid distinction, with regard to this point, between the declarations and the acts mentioned in the questions proposed to us. It will be obvious, that the observations regarding convenience and inconvenience, which we have taken the liberty to offer to your lordships, as to the proof of words are alike applicable to the proof of acts. Nice and subtle distinctions are avoided in our courts as much as possible, especially in matters of practice, on account of the delay, confusion, and uncertainty to which such distinctions naturally lead. For these reasons, my lords, we have thought ourselves called upon to answer both questions wholly in the negative.

Then the Counsel for her majesty were asked

whether they had any objection to having Sacchi called, to be asked, in the first instance to his declarations.

Mr. *Brougham* begged to be allowed, under the peculiar circumstances of the case, to repeat the answer which he had yesterday given. He had then, on the question being put to him, said, he had no objection to Sacchi being called, if he could be forthcoming immediately.

The *Lord Chancellor* said, he must acknowledge, that he had not heard the answer of the learned counsel yesterday so distinctly as to state it correctly to the House.

Lord *Sidmouth* begged to say, it was not true that Sacchi had been out of London yesterday. When it was known, that he was wanted, a person had been immediately sent to his lodgings. He had been found, and had set off to come to the House.

It was then asked by a noble lord, if Sacchi could be produced now?

The *Attorney General*.—He is here, my lord, but I understand his being produced is objected to.

The *Lord Chancellor*.—Then I understand, Mr. Brougham, that you do not consent to his being examined.

Mr. Brougham submitted to their lordships, that he had laid a sufficient ground for putting the question without Sacchi being called.

The following Extract from the Evidence of Domenico Salvadore yesterday, was read:

"Did Sacchi hold any conversation with you on the subject of the process against her royal highness?—He did.

"Did he give any counsel to you upon the subject, or make any application to you?"

The Counsel were directed to withdraw.

The *Lord Chancellor* wished now to know whether it was their lordships' pleasure that the last question should be put. His lordship stated, that he concurred in the opinion given by the learned Judges.

Earl *Grey* said, he would explain the grounds on which he thought the question ought to be put. The first was, on that of the general agency of Sacchi; the second, that of the discredit which would be thrown on his testimony, if it should be proved, that he had been engaged in corruptly suborning witnesses. Now, whether it was competent for the counsel for the defence to proceed with the examination on the last ground, he should not then argue, though his opinion was, that enough appeared in Sacchi's evidence to authorize that course. But what he rose to say was, that he thought such a degree of connexion between Sacchi and the Milan commission had been proved, as was sufficient to let in the evidence proposed to be adduced by the counsel for the defence, and on that account he now moved, that the question be put.

The Earl of *Liverpool* could not admit, that the connexion of Sacchi with the Milan commission was sufficient to lay a foundation for the examination. He did not think, that he stood at all upon the same footing as Restelli or Vimercati. It did not appear to him, that there was any proof of such general agency on the part of Sacchi as would lay a ground for the examination the counsel proposed to institute.

Lord *Erskine* said, that however strongly he might feel disposed to concur with the opinion of the learned Judges upon a mere question of law, he could not discharge from his mind the reasons which induced him to differ from that opinion, and which he had on former occasions endeavoured to impress upon the House. Even if Sacchi had never been examined as a witness, and if there were no possibility of connecting him in any manner with the Milan commission, he should still be of opinion, that in this bill of Pains and Penalties it was the duty of their lordships to see to what extent the attempts to suborn witnesses had been carried, without reference to technical objections. The interests of justice were paramount to all considerations of the inconvenience which might arise from any technical irregularity; and justice to the illustrious accused demanded that their lordships should hear the evidence against Zancla and others, which might tend to throw light upon the conspiracy, even though that course were against the opinion of the learned Judges, for which he had the greatest respect upon questions merely legal. But it was idle to urge technical objections in a proceeding which bore no analogy, not only to any trial in the courts below, but to any proceeding, pretending to a judicial character, that had ever yet been instituted. We are not here (said his lordship, with great animation) in a court of justice. There was no law to bring the Queen to this trial. The learned Judges had declared, and it was admitted by the noble and learned lord, that the offence with which the Queen was charged was no offence at common law. If the Queen had committed no

crime—if this proceeding were above the law—it ought, in common reason and justice, to be untrammelled by legal forms. He repeated, that reason and justice alike revolted from the solemn absurdity of appealing to technical forms and usages, when they were likely to impede the Queen's defence, when the very basis of the proceeding was a violation of all law. He thought the counsel for the defence ought to be allowed to offer all the evidence which it was in their power to produce, to show that attempts had been made by those who acted under the Milan commission to suborn witnesses against the Queen, and he should therefore vote with his noble friend.

The Earl of *Darnley* referred to the evidence given by Demont, to show that agency was brought home to Sacchi. He thought the fact sufficiently proved, that Sacchi was either an agent, or a runner of the Milan commission.

Lord *Manners* said, that the rules of evidence must be equally applicable on the one side and on the other. Both sides had a right to give evidence of a conspiracy if a conspiracy existed. Suppose, then, it had been stated, that there was a conspiracy to prevent witnesses from appearing on the part of the bill, or to remove some material witness, and that persons could be produced capable of speaking to facts connected with the refusal, would this be sufficient to prove a conspiracy against her majesty's friends, unless it could be shown that it had been done by some authorised agent of the party? For example, it would have availed nothing to show that Mr. Flynn, or any other person known to be in the interest of the Queen, was concerned in such a transaction, unless an authority could be clearly proved. It was necessary that this rule should be borne in mind in all cases, for it was equally necessary to the protection of innocence and the conviction of guilt; and their lordships could never do justice if they adhered to it on one side, and abandoned it on the other. So important did he consider this, that he thought it would be desirable to frame a question for the Judges, founded on the evidence which had been given with respect to agency, and to inquire whether, on such evidence, the question could be put? If they acted inconsistently with the rules acted upon in the courts below, the calumnies sent forth against them in libellous publications would appear to be justified. By adhering impartially to the rules of the ordinary tribunals, they would best consult their own dignity and the true interests of the country.

The Marquis of *Lansdown* was always ready to defer to the judgment of the learned persons to whom the questions had been referred on any subject of law; but the question was a mere question of fact; and he never would consent to have his judgment directed in such a case by others. In his opinion, the agency was proved; but, whatever might be the opinion of the House, they would depart from the line of their duty if they referred to any persons, a question of fact which they were bound to decide themselves. The question was, whether Sacchi was concerned as the agent for the Milan commission, for the purpose of carrying on the corrupt acts which had been alleged against them? On that ground only did his noble friend wish the question to be put, and on that ground it should have his support.

The *Lord Chancellor* said, he agreed with the noble marquis, that questions on matters of fact ought not to be referred to the Judges. He could not agree with his noble and learned friend (lord Erskine), that a question of this kind ought to be tried without attending to the rules of law. The question here was, not whether they were to inquire into the charge of subornation of perjury, but what were the best means of ascertaining it? His lordship then put the question, whether it was their lordships' pleasure that the question be now put?

The House divided: Contents, 51; Not-Contents, 159.

The Counsel were again called in, and were informed, that it is the opinion of the House, that the Question cannot now be put.

Mr. *Brougham* then stated, that his learned friend, Mr. Denman, had no further questions to put to this witness, considering the decision to apply to all acts of corruption; but that he begged to submit, that there was a distinction between a case in the courts below between A. and B., or between a prosecutor and a defendant, and a legislative measure, like that before their lordships, where there are no two parties, technically speaking, before the court, and that the opinion expressed by the learned

Judges upon the last Question, as he submitted, was not applicable to a bill; for that they rested a part of their opinion upon this consideration, that a witness, if not cross-examined to the point on which he is afterwards meant to be contradicted, might depart the court, an event which could not happen here, because all the witnesses were in constant attendance upon the House, from the beginning to the end of the proceeding, by virtue of an order of the House; that this was an illustration of his position, that that might be applicable as between A. and B. or between prosecutor and defendant, which was not applicable to a legislative measure similar to that now before their lordships.—He had now closed this head of his case, and should proceed to another subject.

The Counsel were directed to withdraw.

The Marquis of *Lansdown* said, as it was his intention to move for the production of papers relative to the removal of Restelli in September last, and also to his remaining out of this country since September last, it would be his duty to state to their lordships the grounds upon which he thought they could not consistently with public justice or a proper regard to their own dignity, abstain from calling for the evidence which he should ask. Their lordships well knew, that after an order or an understanding, which he supposed equivalent to an order, that no witness who had been examined in support of the bill should be withdrawn, that a most material witness had been withdrawn, by the direct instrumentality of the agent for the prosecution, in obtaining a passport at the Foreign-office, where (notwithstanding that order or understanding of their lordships) no orders had been given that such passports should be withheld. Upon this fact being known, the agent for the prosecution was ordered to appear at the bar, where he was examined upon oath as to the motives which induced him to send Restelli away. He held in his hand the Minutes of the Evidence of that agent, from which he should read the following:

"Did you make application to Restelli, or did he apply to you?—I applied to Restelli, and not Restelli to me.

"Solely to quiet the apprehensions of the friends of the witnesses in Cotton-garden?—Solely to quiet the friends of the witnesses, and to take back certain papers to Milan to be legalised.

"If the sole object of sending Restelli was, to quiet the minds of the friends of the witnesses in Cotton-garden, how came you to send certain papers back by him to be legalised, the legalising of which might cause some delay if he were to bring them back? I sent the papers to Milan to be legalised, that further proofs might be obtained from them, and I expected that these papers would be legalised in sufficient time for Restelli to return on or before the 3rd of October.

"Did you mention Restelli at the Foreign-office when you applied for passports? I mentioned at the Foreign-office that Restelli was going to Milan as a courier.

"Have you had communication with any person, respecting Restelli's delay? Yes; I received letters stating that he was ill.

"From whom?—Colonel Browne.

"Have you now stated the whole and every part of your object in sending Restelli? I have now stated the whole and every part of my motives."

Now, as their lordships had thought it their duty to examine this agent as to his motives for sending Restelli away, and had obtained his declaration upon oath, he would ask them, as they could not discover these motives from any particular instructions given to Restelli, whether they did not think it their duty to ascertain it by the best evidence that could be procured, namely, by extracts from the letters which passed between colonel Browne and Mr. Powell. Their lordships had a right to call for the production of these letters, upon the same ground that they had a right to call the witness, and to put questions to him to ascertain his real motives for sending Restelli away. He hoped he should not be told, that their lordships had placed themselves, by raising an imaginary party at their bar, in such a situation as to be precluded from ascertaining by those papers, which were said to be confidential papers, the real motives which induced their agent not to comply with their lordships orders. He asked, if there was any one of their lordships, who, if he were the principal in a civil cause, and his agent had, contrary to the orders of the court, withdrawn a most important witness, whose evidence would be essential in ascertaining the truth, would he not have insisted upon his agent's producing every tittle which might lead to the disclosure of his real

motives for thus disobeying the order of that court? If their lordships thought themselves bound down by the imaginary party at their bar, let them look at the evidence of Mr. Powell, and they would see if Mr. Powell had spoken truth (and indeed he was unwilling to think otherwise), that no possible injury could arise to this imaginary party by the production of these letters. Mr. Powell had stated, that his sole motive in sending away Restelli was, to make communications to the friends of the witnesses. If that was the sole motive, if he gave no instructions to Restelli, and that could only be found in the letter to colonel Browne, what possible inconvenience could arise by the simple confirmation of that fact? By the motion which he was going to make, their lordships would not be put in possession of any confidential papers which might have passed between colonel Browne and Mr. Powell, as he should only call for those extracts from colonel Browne's letters relating to the illness of Restelli. He would repeat, that nothing could be obtained by agreeing to his motion more than a confirmation of simple facts, if Mr. Powell spoke the truth. He should now move, "That Mr. Powell be called to the bar, and ordered to produce such parts of the correspondence between him and colonel Browne as related to the sending away of Restelli in September last, and to his not returning since."

The Earl of *Liverpool* readily admitted that this case was very different from a case between any individual prosecutor or individual defendant, in which no court could call for the confidential correspondence of principal or agent. He admitted that the House, by having ordered the attorney-general to appear for the prosecution, held a mixed character in this case, and that the objection did not strictly apply. The House, however, having appointed agents, must have appointed them with all the reasonable privileges and all the confidence that belonged to agents. Their correspondence must become confidential, as much as that of the agents of an individual party, or of the illustrious defendant in this case. Every act of theirs became confidential, and was not afterwards to be called for. This correspondence differed from a public record, because every thing of that kind was drawn up with little chance, he would admit, of ever being laid before their lordships, but certainly in contemplation of such a circumstance taking place. If he were correct in the view which he took of the subject, this was a confidential correspondence, and as such confined to the agents themselves, and could not be laid before the public.

As a question of right, he would admit that this case was different from others; but the moment their lordships had appointed these agents, they had vested them with the usual discretionary power of agents. If this doctrine were true, it must apply to parts of the correspondence as well as to the whole, and he thought it absolutely impossible to separate what might relate to Restelli, without garbling the letter altogether, and taking out at the same time matters connected with other cases. He would wish their lordships to understand his objection to be this: the moment their lordships had employed agents, those agents conceived themselves acting as private agents, and if the general principle that the correspondence of agents ought not to be produced were admitted, he thought there was a decided objection to the production of the whole or of a part of this correspondence. This correspondence stood totally different from public documents, because public documents were of a nature likely to be produced, but the correspondence was of such a nature as never to be produced. In this case, what was the motive to induce their lordships to break in upon the general rule? He thought there was literally no mystery in this case with respect to the fact. It had appeared, that a witness had been improperly sent out of the country, but in his conscience, he believed that person was sent with a full expectation of his speedy return to this country; but, however, he was ready to admit, that he ought not to have been sent at all, and it appeared from the declaration of the person who had sent him, that this was done without any communication with the other agents for the bill. He believed there was no difference of opinion among their lordships as to the impropriety of sending this witness away, though there might be some difference of opinion as to the motives of the person who had so sent him. It was for their lordships to say how far they would call for further explanation; but the House, he trusted, would not for the first time break in upon a principle so sacred and so important, as that which precluded the production of the confidential correspond-

ence of agents, written in confidence, and in expectation that it would never be produced. If their lordships should be of opinion that it ought to be produced at all, he certainly should prefer a secret committee.

Lord *King* said, that if he understood the state of the proceeding rightly, a conspiracy had been charged, and Restelli had been proved to be an active, he would say one of the most active, agents in suborning evidence. After that, Restelli had been removed, in a most improper manner, by an agent for the bill—in such a manner, that if it had occurred in any court of justice, the attorney would never have been suffered to practise again, and the cause which had been so much damaged would have been at once thrown out of Court. Reasons had been assigned in excuse for sending this man away; and it was to ascertain whether those reasons were the true ones, that the correspondence was now called for. The noble earl had said, there was no mystery in the business. Now, he thought, the whole proceeding, from beginning to end, bore a character of mystery. The noble earl had, on a former day, avowed himself to be the responsible author of the proceedings; but to-day he seemed rather to shrink from that avowal, and to wish to make the House the principals; while his colleagues, one and all, sheltered themselves in an uniform silence, and did not offer a word in defence of their leader. It was contended, by ministers, or rather for them, that they had no interest in the success or the failure of this measure; and, if that were the case, he could only say that they had stronger nerves than any set of ministers that had been in office since the time of the Cabal. The noble earl had said, that there was nothing mysterious in this matter; but, for his own part, he thought the whole transaction bore the character of mystery. Whoever the prosecutors were, if they adopted the evidence, they must also adopt the agents by whom that evidence was procured. But it appeared that witnesses had been brought forward without the knowledge of the prosecutors, or at least without the knowledge of any of their avowed agents, for Barbara Kress had been procured, not by English, but by German agents. The Hanoverian government, he apprehended, were interested in the steps that might be taken to unravel this mystery. In short, it was clear that machinery had been at work which did not appear at their lordships' bar, but for which the noble earl opposite was responsible. If the noble earl and his coadjutors were sincere when they professed to have only the ends of justice in view, let them not satisfy themselves—let them not expect to satisfy that House or the country—by professions only; but when a motion was made, the object of which was to arrive at a knowledge of the truth, let them testify their sincerity by acceding to that motion.

Lord *Ellenborough* said, he had formerly expressed his opinion upon this subject, and nothing had since occurred to alter that opinion. It being admitted, that the prosecution in this case was different from an ordinary prosecution, it followed necessarily that the agents also stood in a different situation from ordinary agents. It was impossible, that an agent should exercise rights which his principal did not possess, or, possessing, might not be able to exercise. Now, what was the reason assigned for withholding this correspondence? Why, it was alleged, that concealment might be necessary. God forbid that any concealment should be necessary here! He felt convinced, that it was not desirable, and that it was not necessary. But the objection now made to the production of these papers, if it was well-founded, should have been made earlier. The same objection should have been made to the evidence of that person who had been examined at their bar respecting the removal of Restelli; but that had not been done, nor had Mr. Powell made the slightest objection to answer the questions which were put to him in his character of agent. If, then, it was not proper to call for the production of these papers, it was not proper to examine that person on the same subject to which the papers referred; for these letters, it should be borne in mind, were required for the very same object for which Mr. Powell had been examined. An important witness had in this case been removed, and certain reasons had been assigned to their lordships for his abstraction. If these alleged reasons were the true ones, the papers in question would still be so far satisfactory, that they must convince their lordships of Restelli's having been sent away for the purpose which Mr. Powell had stated at their bar: but if, on the contrary, colonel Browne's statement on the subject should be found to be different from that of the attorney,

all the evidence which their lordships had yet heard would be mere drivelling, compared to such an important circumstance. In such a case, therefore, he must vote for the production of the papers. At the same time he felt the force of what had been observed by the noble earl respecting the possibility of those parts of the letters which referred to the mission of Restelli being mixed up with other matters; and therefore he thought the preferable course would be, to have them referred to a secret committee.

The Earl of *Rosslyn* apprehended, that the privilege which an agent enjoyed of being protected against giving evidence which would lead him to betray the confidence of his principal, was not the privilege of the agent, but of the principal. If that were the case, and if the client waved his right, there could be no doubt that the attorney might be called to give evidence. In this case, either ministers or the House were the client; and if the discovery of truth was the object in view, as both ministers and the House professed, then the only question was, whether their lordships, in the investigation of a legislative measure, would exclude truth, and pass the bill without availing themselves of the means of knowledge that were within their reach?

The Earl of *Liverpool* said, that, subject to the understanding that the papers were to be referred to a secret committee, he should not press his objection to the motion.

The *Lord Chancellor*, after what had taken place, did not mean to support the objection, as an objection; but the proceeding about to be adopted was so important, that he desired not to be included in the number of those who thought that there was no objection to it. In the first place, their lordships must allow justice to be done to the witness at the bar; for, if Mr. Powell had not taken the objection to his being examined as a professional agent, he would have deserved never to have been employed as an agent again. If there were particular circumstances to warrant the House in surmounting the objection which, in his opinion, existed to the proposition before them, let it be so. But their lordships ought to be careful how they acted. For first, if the correspondence was called for on the ground, that the House was the principal in the case, he saw no reason why they should not call for the brief of the attorney-general, and for the whole of the correspondence between the counsel, the solicitors, and all the agents employed. Secondly, how could the required parts of the correspondence be abstracted, as to leave only those of which their lordships wished to be put in possession? And thirdly, he put it to their lordships whether, in common sense and common justice, before they asked the witness so many questions at the bar respecting the letters, they ought not to have determined whether or not the letters themselves should be produced?—because they ought to recollect, that in order to try the accuracy of the parole evidence which had been given by Mr. Powell, they were now about to require from him letters which he had in his pocket, and which, if they contained that which the demand implied, would go to convict him of perjury? He confessed himself utterly at a loss to discover the principle on which the proposition before their lordships was founded.

Lord *Redesdale* denied, that any evidence had been adduced which fixed Restelli as an agent for the bill.

Lord *Erskine* considered the acts of Restelli as having clearly invested him with the character of an agent. As to the argument of the learned lord on the woolsack, that on the principle on which the present motion was founded, the attorney-general might be required to produce his brief, he had only to observe, that the attorney-general was not charged with having been guilty of any contempt of their lordships' orders.

The Marquis of *Lansdown* begged leave to make one remark on what had been said by the learned lord on the woolsack. The learned lord in the protection which he had thought it necessary to give to Mr. Powell, had stated that no insinuations should be made against the attorney for refusing to produce the letters that had passed between him and colonel Browne. In this opinion he agreed; and in the statement he had made he had carefully abstained from any animadversion whatever on that part of Mr. Powell's conduct. If, therefore, the learned lord alluded to him——

The *Lord Chancellor* begged to interrupt the noble marquis, and to say, that if he had meant to allude to the noble marquis he should have done it in terms that could not have been misunderstood. He must also say, that, during all the time that he had had the honour of sitting in

that House, he had known no noble lord who was so little liable to make such animadversions as the noble marquis.

The Marquis of *Lansdown* briefly replied to the objections that had been urged against the motion. From the moment that Mr. Powell stated he had received these letters from colonel Browne, he stopped; the letters then became the best possible evidence, and their lordships might have called on him to state, *vivâ voce*, what was said in them. As to the danger apprehended from such a precedent, he would relieve their minds from that apprehension at once; for it was distinctly laid down in the law-books, that the privilege in question was granted for the protection of the principal, and not of the agent; and therefore, when the principal waved his right, the agent might be called as a witness. Having certainly no object in view but the attainment of truth, and as it appeared to some noble lords that the best way of getting at it would be by referring the letters to a secret committee, he should alter his motion in deference to that opinion.

The Earl of *Liverpool* suggested, that the motion should be, that the select committee should have authority to call on Mr. Powell for such parts of the correspondence as might be necessary to elucidate the object in view. As the noble marquis and himself agreed as to the substance of the proposition, it would, perhaps, be better to leave the particular arrangement of it to a later period of the day.

Lord *Holland* observed, that the whole case resolved itself into one of privilege.

The Marquis of *Buckingham* did not think, if eliciting the truth was their lordships' object, that it could be best effected by submitting the proposed extracts to a secret committee. He did not say it was not right to do so, but if it were right to break through those rules that directed the courts of justice on this subject, he thought the committee should have the farther power to sift and inquire into those causes that led to Restelli's being sent out of the country.

The following motion, as drawn up by the marquis of Lansdown, was then read by the Lord Chancellor: "That a select committee be appointed to inquire and examine into the correspondence between John Allen Powell, esq. and colonel Browne, so far as relates to the mission of Restelli to Milan, in September last, and to the causes of his not having returned."

The Earl of *Lauderdale* thought, that, if the committee were appointed, Mr. Powell should select such parts of the letters as referred to the mission of Restelli; but he could not approve of the motion in any shape. It was of greater extent than their lordships were aware; it laid down the principle that an agent might be called as an evidence, and have his whole correspondence examined. He maintained that, if this motion were agreed to, there was an end of all confidence between agent and principal; and he did not think that in future any agent could safely do what he might think necessary for the interests of his client, subject to the apprehension that, at a future period, the whole of his conduct and correspondence might be examined. He thought this motion would set a more dangerous example than any other motion he had ever heard made. If this was a public offence, was it fitting that a secret committee should judge of it? It was an offence against the whole House, and therefore a secret committee could not be made the judges of it, unless a part were to decide on the privileges of the whole. If it was necessary for parliament to inquire into the subject, let it make the inquiry by means which would not break down all the precedents of parliament. To lay the confidential correspondence of an agent before a secret committe was what he could not agree to.

The Marquis of *Lansdown* said, that the argument of his noble friend was all in favour of his original motion; but when his noble friend, or any other noble lord, alluded to this as a course unprecedented in parliamentary proceedings, he must state to him, in reply, that, fo far from being unprecedented, scarcely more than one year had elapsed, since that very course had been laid down by the legislature as the most consonant to the practice of parliament. It had been laid down at the commencement of this proceeding by the noble earl opposite in the House of Lords; and in the other House of parliament, in the case of Mr. Wyndham Quin, the correspondence between Mr. Grady and Mr. Carew Smith had been ordered to be produced before the House, and referred to a secrect committee. He thought the course proposed, of sending such papers before a secret committee, was by no means an unparliamentary one.

He was of opinion, however, that the more regular course of becoming possessed of them would be, to call for these papers, sealed up, and then to refer them to a secret committee. At the same time, if it was thought more convenient to proceed by the appointment of a secret committee (a difference which he was not disposed to consider very material), he apprehended the proceeding would be, to call Mr. Powell before them, on an understanding that he should exhibit the letters, doubling down those parts of them that were not connected immediately with the inquiry, for the purpose of satisfying the committee that such parts referred to the mission of Restelli. He imagined, that what the House delegated to the secret committee would be, to inquire into the matter of fact arising out of the papers, reserving to the House to act as it thought proper on the report of the secret committee. It was indifferent to him what particular course was pursued on this occasion; but, be that what it might, he should feel it his duty, if the House could not agree on the mode, in any event to take the sense of the House upon the main point—that the papers should be got at. A most extraordinary and unpleasant mystery hung over this man's departure—a mystery which ought to be instantly dispelled, and which could not be removed but by the production of such parts of this correspondence as related to the departure of Restelli.

The Earl of *Liverpool* was by no means disposed to offer any opposition to the suggestions just thrown out, conceiving, at the same time, that nothing ought to be referred to the secret committee but the correspondence between Mr. Powell and colonel Browne as to the causes which had induced the sending Restelli out of the country, and the reasons of his not having returned. He did, therefore, imagine, that that must and ought to be arranged in such a manner that no other part of the correspondence should be brought into question, or under inspection. If he were a member of the committee (which he was desirious not to be), he should consider that Mr. Powell ought to attend with the required extracts from the correspondence, and that he should be prepared to verify them by showing the originals.

The Earl of *Lauderdale* adverting to the precedent which had been quoted by his noble friend, protested against deriving precedents from the other House of Parliament. If the motion were limited to the facts which related to Restelli, he should be satisfied; but as it stood, it referred to the whole of the correspondence in question.

Earl *Morton* said, that Mr. Powell had been sworn and interrogated as to sending Restelli away, and now their lordships wished to have his correspondence referred to a secret committee. If this were agreed to, no man in his senses would ever become an agent.

The Earl of *Limerick* observed, that Mr. Grady and Mr. Carew Smith, whose correspondence had been referred, by the House of Commons, to a secret committee, were not confidential agents. It was in the fact, that Mr. Powell and colonel Browne were confidential agents, that his great objection against the proposed proceeding resided. There could not be a more mischievous principle, than that confidential agents should be liable to make disclosures such as those now required. It was a principle pregnant with every possible danger to society. On these grounds, he should certainly oppose both the original and the modified proposition.

The Marquis of *Buckingham* thought it would be sufficient for the purposes of the committee if they were furnished with the necessary extracts only; and recommended that a power should be reserved to Mr. Powell to give explanations, if called for.

The *Lord Chancellor* confessed, that it appeared to him, from the words of the motion, that it was presumed the committee would see the necessity of examining all the correspondence, in order to ascertain how much referred to the point to be inquired into. He might move an amendment to correct the terms of the motion, if he were acting in any other situation than that in which he stood; but the House must see it was impossible. If any noble lord chose to move such an amendment, it was of course open to him. Noble lords appeared to have grounded the opinion of the necessity of Mr. Powell's examination before a secret committee—or, at any rate, to have defended such a course—upon what they called the contempt of that gentleman. They talked of the contempt of Mr. Powell; but this correspondence was between him and colonel Browne. What right had they, then, to ask colonel Browne? Had he been guilty of any contempt of their House;

or was there any man in his senses who would believe that, after such a proceeding as it was proposed to enter into, if, in the course of it, it should be necessary for Mr. Powell to write colonel Browne a letter,—who would believe that the latter would answer him?

Lord *Redesdale* objected to the original proposition, but maintained that the reference to a secret committee was only a worse way of doing the same thing. He apprehended that their lordships had no right to call on Mr. Powell to betray colonel Browne's confidence. When their lordships called Mr. Powell to the bar, they precluded themselves from doing that which it was now proposed to do. If they intended to call for the correspondence, they should not have gone so far in the examination. That was the principle of every court, in which there was any regularity in the administration of justice. What their lordships were now recommended to do, appeared to him to be an act of gross injustice. He protested against it in every shape; but most especially in the shape of a reference to a secret committee. Rather than that Mr. Powell ought to be required to extract from his letter to colonel Browne, the passages in which he stated his motives for selecting Restelli as the courier to be sent out to Italy (for that was all), and those parts of col. Browne's answer which related to the causes that had prevented Restelli's return.

Earl *Grey* said, that he was ready to concur either with the motion which was now in the hands of the learned lord on the woolsack, or in any other motion which should be thought proper for the same purpose. It had been said, that, by entertaining either proposition, he would be countenancing an act of real injustice. He trusted that it was unnecessary for him to say, that he did not go upon any such motive. So far from thinking that the effect of this inquiry would be to produce gross injustice, in his opinion no substantial justice could be done without it. Their lordships, upon the 21st of August, made an order that the witnesses summoned in this cause should attend, *de die in diem*. The noble earl, at the head of his majesty's government, had given a solemn pledge, that, so far as depended upon him, that order should be strictly adhered to. And what followed? When their lordships had come to a case requiring the immediate attendance of a witness at their bar, they found that, in contempt of this order, and in direct violation of that solemn pledge, that witness had been removed. The consequence of this removal and the effect of that violation, was an admission from the learned lord that an injury had been done to the Queen's case, which could not be atoned for, and was not likely to be easily repaired. Now, he asked, if this was not a case which demanded that their lordships, if they meant to do justice impartially, should sift to the bottom. This sort of reasoning had been already put to their lordships, and Mr. Powell had, in consequence, been called to their bar. He had then stated to their lordships certain reasons which had induced him to do that which government had pledged themselves not to do. This explanation (without meaning any thing personal with respect to Mr. Powell, or the character of his evidence), he must be allowed to say, had not satisfied his mind. When Mr. Powell had referred to the correspondence of colonel Browne, as containing the motives of his extraordinary disobedience to the orders of the House, it became absolutely necessary that that correspondence should be produced. The question, then, related merely to the manner of producing that correspondence; and undoubtedly he was inclined to think, that the original motion was best calculated to attain that object. His noble friend, however, had given way, in compliance with the suggestions of the noble earl opposite, and in order to unite all opinions upon the subject. In point of form, he believed it was not usual, in cases of privilege, to refer any matters connected with such offences to the consideration of a secret committee; at least, such was not the practice of the House. But he must beg leave to put a noble lord right, when he said that their lordships would be doing great injustice by adopting either motion; and that, by either, they were called upon to pronounce on the credit due to Mr. Powell. They were making no such reference to any committee. All that a committee was required for, was an exhibition of the correspondence, and that it should report to the House, not any opinion as to the efficacy of Mr. Powell's evidence, but as to the statements made in that correspondence—a correspondence which it had been asserted would divulge (as it would do without any public injury, or at least any injury to the client at their

bar) the motives of Restelli's mission. Whether precedents for such a course of proceeding as this were or were not to be found, to him it at least appeared, that in a case of contempt of court, or, in more parliamentary language, a breach of privilege, it was certainly to be supported. If it should appear that there were circumstances of a confidential nature connected with that correspondence, the exposure of which to the public view might be prejudicial either to the public interest or to the individuals concerned, under such circumstances, without any departure from the principle of the original motion, he thought it might be prudent to refer that part of the letters to the discretion of the secret committee. But this had been ground of opposition to the original motion. In order to obviate that objection, he should not himself object to revert to what was the original course proposed by his noble friend; and to amend the motion in this way—"for the production by Mr. Powell of such parts of his correspondence with colonel Browne as may relate to the mission of Restelli to Milan." He meant to follow this up by a second motion, to refer the copies or extracts so produced, to the secret committee, to report upon such parts as they might deem fit to submit to the House. He thought that this would be the more desirable course on the whole; but that they should examine and inquire seemed to him to be indispensable. This he conceived to be a necessary form of proceeding; and without it their lordships must see that nothing could be, in effect, more nugatory, if they were to refer the matter to the witness at the bar, and leave it in his power to make such explanations as he pleased. Perhaps he might not produce the originals; but copies of such parts as he chose to select, or what he might call copies. It would be, indeed, nugatory and absurd. In saying this, he was not now throwing any doubt upon the accuracy of Mr. Powell's statement; that remained to be confirmed, and confirmed, he trusted, it would be; but he also trusted, that their lordships would not make the result of their appointment a mere nonentity, as it would be, unless it led in some degree to the production of the originals before the House, so that the explanation which was called for might be certainly and decisively known. As he wished the question might be put in the most explicit manner, he should propose, as an amendment, that after the word "that" in the original motion, all the following words should be omitted, and these be substituted in their stead:—"that Mr. Powell be directed to produce such parts of his correspondence with colonel Browne as may relate to the mission of Restelli to Milan."

The Earl of *Liverpool* had no objection to offer against a motion, that Mr. Powell should lay before the House copies of such parts of his correspondence with colonel Browne as related to Restelli's mission to Milan; nor had he any objection to Mr. Powell's being again called to the bar and examined upon that part of the transaction. But he had a decided objection to the production of the original correspondence; because those letters related to other matters not at all connected with this part of the case. He conceived the whole purpose of the noble mover would be attained by directing that Mr. Powell should produce a sealed copy of that part of the correspondence which referred to Restelli's mission to Milan; and by afterwards referring that copy to a secret committee of their lordships, giving to that committee the power of examining Mr. Powell, in order to verify the extracts.

Earl *Grey* said, his object was, to conduct the inquiry in such a manner as to obviate any objection which might be urged against it. He had no objection, therefore, to take it as it was proposed by the noble lord.

The Earl of *Limerick* repeated the objections he had urged against the proposed course of proceeding. He most strongly objected to the principle here, or in any case, of calling on the agent. In all cases, too, he was most averse to the appointment of secret committees, unless they were indispensably required. His objections remained unaltered; and if he should find no noble lord to entertain his own feeling on the subject, he would divide singly.

Earl *Manvers* said, he would support any motion that had for its object the accounting for this strange mission of Restelli to Milan. The reasons given at their lordships' bar by Mr. Powell were not at all satisfactory to his mind. He should, therefore, consider himself guilty of a gross dereliction of duty, if he did not support any motion, the object of which was to account for this extraordinary transaction—a transaction which,

if their lordships omitted to have cleared up in a manner perfectly satisfactory to themselves, would fix a stigma on them that could not be wiped off.

Lord *Somers* objected to the principle upon which both the motion and amendment were grounded. He could not support a proceeding, the tendency of which was, to do away with those laws, which were most essential to the preservation of our glorious constitution. He conceived that there was no act more destructive to the constitution, than that which went to destroy that confidence which existed between agents and their principals. He would ask, how any man could engage with honour and satisfaction in any case, if he was to be under the continual fear of having his letters and communications brought before the public? Nothing could have a more injurious tendency than the establishment of such a precedent. If he rightly understood the noble lord who spoke last, his vote was grounded rather on the conduct of Mr. Powell, than on the merits of the question itself.

Earl *Manvers* begged to say three words in explanation. The noble lord had certainly misunderstood him. He had made no reference whatever to the witness, who was not, at the moment, in his mind, excepting only as regarded the fact of Restelli's absence, which he considered most mysterious and singular. He had no hesitation in saying, that he conceived it was absolutely necessary for Mr. Powell's character, that it should be cleared up. He admitted that there was difficulty in the course proposed, but of two evils he would choose the least, and would prefer the proposed inquiry rather than endure the odium which the circumstance must otherwise draw upon them.

The Earl of *Harewood* perfectly agreed with those who thought that there was a very great difficulty in this question. On the one hand, he should be the last man in the world to authorize the production of any confidential communication between a principal and his agent; because a line of that description, taken by that House, would be absolutely ruinous to all confidence between man and man. But, under the particular circumstances of this case, notwithstanding Mr. Powell's words and declarations, which he was disposed to take as true, there was something on the face of it which required the House to investigate the whole of the correspondence upon the particular point to which their attention was directed. There was something in the absence of Restelli which appeared to demand inquiry, and which could not be accounted for but by a most satisfactory explanation. Of course there would be in the committee a strict understanding, that nobody on that committee should look into the original correspondence, except for the verification of the extracted copies of the parts alluded to. To look beyond this would be to exceed the duty of the committee, and to commit a breach of honour with the parties. He had no doubt, however, that if the committee were appointed, it would do its duty in a just and proper manner, and make such a report as the exigency of the case required.

The Earl of *Hardwicke* said, he concurred fully with what had fallen from the noble earl who had last spoken.

Earl *Grey* observed, that his motion would be so restricted that every noble lord would have full security that the object in view, and that only, would be obtained. In answer to what had fallen from a noble lord, he had only to observe, that it would, in his opinion, be better to proceed as was now proposed, than to allow the imputation which the absence of this witness would cast upon their proceedings. If their lordships were determined not to adopt his amendment, he was determined to propose an immediate suspension of their proceedings. What he now proposed was, first, to move as an amendment to his noble friend's motion, "That Mr. Powell be directed to produce at the bar such extracts from the correspondence between him and colonel Browne as related to the mission of Restelli to Milan." He intended to follow up this motion with another, namely, "That a secret committee should be appointed to inquire into those papers, and report thereon; with power to examine Mr. Powell, in order to compare his answers at the bar with those extracts." He wished it to be understood that the functions of the committee were to be strictly limited to this inquiry.

The Earl of *Donoughmore* thought, the House were imperatively called upon to make further inquiry into this transaction. This committee was not called for with any view of contradicting Mr. Powell's evidence, but for the purpose of corroborating it, by a reference to the original

letters of colonel Browne respecting Restelli, which Mr. Powell admitted he had in his possession. There was no breach of confidence in this; for the House were the original employers of Mr. Powell; he was their confidential agent. It was they, therefore, not Mr. Powell, that were responsible for whatever disclosures might arise out of the matter. It was impossible for the House to do that justice which the case required, without opening their doors as wide as possible for the admission of truth.

The Marquis of *Lansdown* said, that he so entirely concurred in the motions as amended by his noble friend, that he had no objection whatever to withdraw his own motion to make room for their adoption. It was, he thought, indispensable for the character of the House that this inquiry into Restelli's journey should go on. The committee would, of course, not enter further into the examination of the original letters than to verify the extracts: to that their examination would, of course, be restricted, and the House might rely with confidence upon the propriety of its committee, and that they would not exceed the limits assigned to them.

The Earl of *Lauderdale* said, that if they decided upon going into this inquiry at all, it was, of course, necessary they should go into it effectively; but his difficulty was how they could confine their examination of the originals to a verification of the extracted parts merely relating to Restelli's business. He could not see how the whole of the correspondence could be opened without going further than he thought the House ought to go consistently with the principles of justice.

Earl *Grey* repeated, that he meant simply to confine the committee to a verification of the extracts, by comparing them with the originals; and not to go through the whole correspondence in any way beyond what was actually necessary for the purpose of verification.

The Earl of *Carnarvon* said, that the proceedings of the committee ought to be opened as wide as truth required. What was it they were now about to do? It was, in fact, little or nothing, compared with what the case called for. They were by this motion merely calling upon Mr. Powell to make out his own case. As the committee now stood restricted, Mr. Powell would be the committee, and not the noble lords whom the House might appoint. Why should not the committee have power to ascertain whether the extracts put in were, or were not, garbled? He did not mean to insinuate that Mr. Powell would garble them; but the committee ought to have power to make their duties fully effective, and not dependant upon the inclination of any individual, to obviate all possible misconception. If they did not give more latitude to the committee, they would not satisfy the ends of justice, nor afford the Queen that protection which she had a right to demand. It had been said, "Will you produce the confidential papers of this prosecution?" To this he would answer, "Had they not already produced them in their case for the prosecution? Aye, and gone beyond them, he had no doubt." [Hear, hear!] He also thought her majesty had a right to complain that this debate had been carried on in the absence of her counsel, who might have it in their power to submit, that the House were restricting the just scope of defence to which she was entitled. In justice to the Queen, they ought to call in her counsel, and ask them if they were satisfied with the proposed proceeding, which, however, he thought, as it now stood, was nugatory, and could not afford satisfaction to any party.

The Marquis of *Lansdown*, with reference to what had fallen from his noble friend who spoke last, observed, that what the House was discussing had nothing whatever to do with counsel [Hear, hear!] It was merely an inquiry within the House respecting the violation of one of its own orders [Hear!] The intended proceeding was not either a negative one, but rather of an affirmative character; for it was to show whether the evidence given at their bar was correct, according to the documents referred to in that evidence. It was, in fact, to pursue the ends of justice by getting at the truth, the whole truth, and nothing but the truth, as connected with a particular part of this transaction

The Earl of *Carnarvon* said, in explanation, that what he complained of was Mr. Powell's having to make the extracts instead of the committee.

Earl *Grey* hoped, in explanation, to be allowed to say, that the documentary evidence was called for to support what Mr. Powell had said at their lordships' bar. The only power which the committee required in furtherance of this ob-

ject was to have reference to the originals for the purpose of verification. If in their inquiry they should see any necessity of calling for fresh powers, they must return to the House to call for that augmentation.

The *Lord Chancellor* then put the question, that Mr. Powell do produce the extracts of the correspondence between him and colonel Browne relative to Restelli's mission to Milan, and the House divided—

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On re-entering the House, we found the earl of Carnarvon on his legs, contending that the inquiry ought not to be by a secret committee, but by the House. The motion for a secret committee was, however, carried without a division, and the following peers were then appointed on the committee:

The Lord President of the Council.
Earl Grey.
Earl of Rosslyn.
Lord Manners.
Lord Arden.
Lord Ellenborough.
Earl of Lauderdale.
Lord Erskine.
Lord Ross.
Lord Amherst.
Marquis of Lansdown.

The following Protest against the appointment of the said Committee was entered on the Journals:

"Dissentient—Because this resolution appears to be inconsistent with the principles upon which all courts refuse to compel the production of any part of the confidential correspondence of professional persons employed confidentially as such in the matters to which the correspondence relates.

"Because no particular circumstances in this case appear to be sufficient to authorize our not adhering to the rules of proceeding founded on those principles.

"Because, therefore, this resolution, if acted upon as a precedent, may dangerously affect the administration of justice.

Eldon, C.
Queensberry.
Rous.
Montague.
Somers.
Farnham.
Northampton.
Limerick.
Saltersford (Earl of Courtown).
Clinton.
Carrington.
Cathcart.
Loftus (Marq. of Ely).
Belmore.
Mayo.
Brooke & Warwick.
Gordon (Marquis of Huntley).
Douglas of Lochleven (Earl of Morton).
Chandos-Buckingham.
Kingston.
Orford.
Macclesfield.
Kenyon.
Digby.
Shaftesbury.
Lonsdale.
Huntingdon.
Mansfield.
Redesdale.
Meldrum (Earl of Aboyne).
Pomfret.
Falmouth.
Abingdon.
Northwick.
Cunynghame.
Harris.
Walsingham.
Napier.
Winchester.
Strange (Duke of Athol).
Grey.
Forbes.
Stewart of Castle Stewart (Earl of Moray).
Coventry.
William H. (Duke of Clarence).
Cornwallis.
Ailesbury.
Chatham.
Powis.
Stamford and Warrington.
Exmouth.
Richmond & Lennox.
Suffield.
Monteagle (Marquis of Sligo).
Sydney."

The Counsel were again called in.

Mr. *Brougham* submitted, that it became his duty, and a matter of necessity, to make an application on behalf of her majesty, with respect to an inquiry, in which the counsel were allowed to bear a part on Friday and Saturday last, which applied to a material witness of the name of Restelli; that an agent for the prosecution, who appeared to be the person who sent the witness out of the way, was examined, in the course of which examination the House were pleased to direct, that the counsel for and against the bill should have permission to put certain questions to the witness, on the subject matter of the inquiry into his conduct; that the counsel thereby necessarily became parties to the proceeding; that it became necessary for him now to ask for the assistance of their lordships to investigate the obstruction by which they were impeded, by the production of the whole correspondence either to the House or to a committee of the same, and that the counsel for the Queen, who had been allowed to take a part in the examination of Mr. Powell, or some of them, should be permitted to take a part in his further examination upon this subject.

The Counsel were directed to withdraw.

The Earl of *Carnarvon* conceived that Mr. Powell ought to be called in again.

It appeared obvious to him, that the agents to the Milan commission had withdrawn from this country the witness Restelli. In doing so, they appeared to be guilty, not merely of culpable neglect, but of the absolute obstruction of public justice. The charge, at least, was made; and it was necessary to sift it to the bottom. But how was that to be done? Not by putting counsel within narrow limits, but by opening wide the gates of inquiry, by the production of the correspondence, and the further examination of the agent. He would therefore move, that Mr. Powell be called to the bar.

The *Lord Chancellor* said, that, without making any observation, he would merely say Not-content; and he would do so, because he considered the proceeding a most dangerous one.

The Marquis of *Lansdown* said, that the sending Restelli out of the country amounted to a breach of their lordships' order; and that, too, by the agent for the bill. Would not their lordships then inquire into the conduct of that individual?

The Earl of *Liverpool* said, that if any special ground were stated for bringing up Mr. Powell, that might be a question for further consideration; but, at the present moment, he would resist the motion.

The Marquis of *Lansdown* apprehended, that for the purposes of justice and the attainment of truth, Mr. Powell ought to be examined, and to be ordered to produce the papers which he had in his possession. He thought that, as counsel had been present at his former examination, they ought to be permitted to attend any future examination.

Lord *Holland* said, that their lordships had already called upon the counsel to assist in the inquiry respecting the disappearance of Restelli. That inquiry was not deemed satisfactory. Their lordships discovered that mysteries hung about that transaction which it was necessary to clear away. They established a committee called Select; but it was well understood, that that committee was to be a secret committee; that they were not to divulge their proceedings either to their lordships or to the public. Their lordships, it would seem, were resolved not to communicate with counsel, though they had done so on the former occasion. Their lordships must have had some reason for establishing a committee; the reason was, that their lordships felt that the inquiry was neither complete nor satisfactory. The counsel for her majesty was interested in the inquiry; their lordships made them parties to it, because they had directed them to employ their minds upon it. To put questions to the agent, to sift the matter in issue, counsel did attend the examination at the bar; and they, like their lordships, felt that the partial inquiry already had was neither conclusive, nor satisfactory. Could they say to the counsel, "You have no right to interfere in this inquiry, because the Queen is not interested in the issue of it? We have called on you before—we made you parties to an inquiry which, however, we now acknowledge was not satisfactory; but though we have made you parties in the one case, we will not consult you in the other; and we will assume, that the Queen is not interested in an inquiry, which has for its avowed object to discover, whether an obstruction of justice has taken place in a case which so vitally affects her interest, and her honour." Was there ever a proceeding more anomalous, or more contradictory? The truth was, that their lordships could not shut their eyes to the case before them; an obstruction of justice had occurred, and they were bound to one of these conclusions; either they would proceed to inquire into and to ascertain the whole of the cause of that obstruction of justice, or they would say we are not able to do so, and therefore we are not able to proceed further in this bill. Their lordships were bound to call Mr. Powell to their bar, notwithstanding the appointment of a committee. He wished that noble lords, when they talked of abiding by the rules of law, and who at the same time, asserted, that bills of pains and penalties were part of the constitution of this land, would show to the House, what rules of evidence ought to be followed in proceeding on those bills. If their lordships were determined to abide by the rules of evidence in this long, tiresome, and, he would add, contemptible proceeding, they must suppose, that the rules of evidence led to the attainment of justice; if not, they ought to give up the proceeding altogether; because the only justification they had for proceeding at all was, to come at the truth.

Lord *Ellenborough* thought that the obstruction of Restelli should be considered in two points of view; first, as an obstruction to her majesty's defence; and secondly, as a breach of privilege. It was under the first

point of view alone that the House had determined that counsel should be called to take a part in the examination of Mr. Powell. As a question of privilege, the counsel had nothing to do with the business; and it was as a question of privilege alone that he conceived the correspondence had been ordered to be laid before a select committee. The appointment of that committee was not, therefore, he conceived, any objection to recalling Mr. Powell, with respect to the alleged obstruction of justice; but he would not consent that he should be called, on an abrupt motion for that purpose, without any special application having been made by the counsel for her majesty.

The Earl of *Darnley* looked upon the obstruction which had taken place as a great injustice towards her majesty; and, in that point of view, he considered that the counsel ought to be allowed to re-examine Mr. Powell. He agreed, that with the case of a breach of privilege alone the counsel had nothing to do; but when an obstruction to the defence of their illustrious client arose out of it, he thought they ought to be allowed a very considerable latitude in their re-examination. He did not think, therefore, that this application could be resisted with that view to substantial justice which the noble earl opposite had enforced on a former occasion. If their lordships should refuse this application, he would exercise his privilege as a peer, and put questions to Mr. Powell on this subject when he came to the bar with the papers. He fully concurred with his noble friend (lord Holland) in his observations on the whole of this unfortunate case; and he would repeat, that it was a disgusting and contemptible proceeding. In this opinion he was more and more confirmed every day. He was firmly convinced, that their difficulties on the subject would increase daily, and that they would never arrive at any satisfactory conclusion. When he came daily to that House, and saw the paraphernalia by which they were surrounded, he doubted whether he was not waking from some feverish dream.

"Ac velut in somnis oculos ubi languida pressit
Nocte quies, nequicquam avidos extendere cursus
Velle videmur, et in mediis conatibus ægri
Succidimus; non lingua valet, non corpore notæ
Sufficiunt vires, nec vox nec verba sequuntur."

Their lordships would excuse him from pressing the quotation further. It was his firm belief, that this proceeding would never come to any satisfactory conclusion.

The Counsel were again called in, and were informed, that it was not the pleasure of the House, that Mr. Powell should now be called in.

Mr. *Brougham* stated, that he would now proceed to another part of the case, understanding it to be open to him to resume his application as to taking a part in the examination when it was determined that Mr. Powell should be called.

Then Colonel *Alessandro Olivieri*, was called in, and having been sworn, was examined as follows by Mr. Tindal, through the Interpretation of the Marchese di Spineto:

Were you ever in the service of the viceroy of Italy? I have been.

What rank did you hold in the army? My last was colonel of cavalry.

Did you serve in the campaign of Russia? I did.

Were you taken prisoner there? Yes.

When did you return from Russia? On the 18th of February 1815.

Were you afterwards in the French army? Yes.

What rank did you hold in that army? Colonel.

When were you first introduced to her royal highness the princess of Wales? In the month of November 1816, whilst she was at the Villa d'Este, at Como.

Who introduced you to her royal highness? Baron Cavaletti.

Do you recollect afterwards seeing her royal highness at Rome? I do.

When was that? In the year 1817, when she came to Rome and remained there two months.

Do you recollect the month? I think in the beginning of June.

Did her royal highness at that time give you any invitation to visit her? Often, many times; she did me the honour to admit me at her table.

Did she at any time invite you to visit her at her Villa of Pesaro? She invited me in the month of November.

Did you pay her a visit at that time? Yes, I paid her a visit on the 11th of November.

Was her royal highness at that time living at the Villa Caprili? She was.

Was any proposition made to you to join her royal highness's suite? There was.

In what situation were you to join that suite? As one attached to her court.

Were you to receive any pension or salary for that service? Yes.

How long did you serve in that capacity? I continued so till the 4th of November of the following year.

That would be the year 1818? Yes.

Did you then receive any other appointment under her royal highness? I had the honour of being appointed her chamberlain.

Were you sole chamberlain, or jointly with some other person? There were others; but at court there was nobody else except Bartolomeo Pergami and myself.

How long did you remain in the situation of joint chamberlain? Till last February.

Do you receive at this time any pension or salary from her majesty? I do not.

Have you received any since the time when you left her service? No.

Are you a married man? I am.

Have you any family? A daughter.

Where do your wife and daughter live? At Rome.

Were they, at any time whilst you were in the service of her royal highness, at Pesaro with you? Never.

Are you living with them at present when you are at home? I am.

Do you recollect her royal highness being at Rome at the beginning of August 1817? She at that time set out from Rome.

For what place did she set out from Rome? She set out for Bologna, but I know that she went to Sinigaglia.

Did you sup with her royal highness the evening before she set out, or the evening of her setting out? I had that honour.

At what time in the evening or night did she set out on her journey? About midnight.

Did you hand her royal highness into her carriage? I had also that honour.

Into what carriage, what kind of carriage, did you hand her? It is what we call in Italian carrettina, a landaulet, an English carriage.

Besides her royal highness, who got into the same carriage? Countess Oldi and the chamberlain Pergami.

Do you remember a little child of the party?

[The Witness answered before the Question was translated.]

And the child Victorine.

Do you remember whether Mr. Vassali was upon that journey? I do.

Was Mr. Hownam also on the journey? Yes.

Did you see them in their carriages? I saw them, and I bowed to them.

Have you ever since travelled yourself in the same carriage in which her royal highness travelled that night? I have travelled, but not on that occasion.

Have you often used the carriage since? Sometimes.

Do you know the carriage very well? Yes, I know it.

Do you know who rode as courier from Rome upon that occasion? I saw Carlo Forti set out as a courier.

During the time that you were joint chamberlain with Pergami, what were the manners and conduct of Pergami towards her royal highness? The conduct of a respectful servant.

Did you ever see any thing improper or indecorous in his conduct towards her? Never.

When her royal highness was at Rome, who were the persons who visited her? Very many persons of the first nobility.

Can you name them, or any of them? Cardinal Gonsalvi, cardinal Ruffo, cardinal Vidoni, cardinal Cacciapiatti; I cannot remember, they are so many, besides ladies; the princess Ghigi.

Do you remember the baroness Aniajani? She was one of the dames d'honneur of her royal highness.

By whom was she appointed? I believe the government.

Did you ever see her royal highness in the company of his holiness the pope? No.

Do you know the duchesse Togarella? I do not.

Do you know the prince and princess Gabrielli? I do.

The duchess of Bracciano? I do.

Did she also visit at her royal highness's? Many times.

At the time these visits were paid, was Pergami in the company of her royal highness as chamberlain? He was.

What society did her royal highness keep at Pesaro, who visited her there? The whole of the first nobility of Pesaro.

Do you recollect the governor? I do.

Is there an archbishop Briolo? Yes; but he was the archbishop of Urbino.

Did he upon any occasion, about the time you are speaking of, visit her royal highness? Not at Pesaro, but at Urbino, when her royal highness went there.

Do you know whether Pergami has been received at any of the houses of the persons you have mentioned, when her royal highness has not been in his company? I too have been present there many times.

Have you seen her royal highness, when walking, take the arm of any gentleman of her suite? I too have sometimes had this honour.

What was the conduct and demeanor of her royal highness towards the gentlemen of her suite generally? Affable, but at the same time dignified.

After her royal highness appeared in the morning, who generally attended her? All those who belonged to her court.

How did she generally pass her mornings? After having taken breakfast, she went generally to take an airing in the carriage, and then she went into her library, or wrote.

Who generally attended her royal highness upon those occasions? If you ask during the time her royal highness was at Rome, I cannot tell; but if you ask after the time I was in her service, then I will explain myself.

That is the time to which your attention is directed? I repeat, all the suite attended her.

During the time her royal highness was at Pesaro, did she enter into society? She had the society at her own house continually.

Was there company besides those of her own suite? Yes, sometimes there was somebody who came during that hour.

Do you know whether her royal highness ever used a carriage that had an apron to it when she was at Pesaro? I never saw such a carriage; I never saw it.

Are you to be understood that you do not know whether her royal highness had such a carriage? I cannot say, because I have not seen it.

Cross-examined by *Mr. Attorney General.*

What countryman are you? Of Tivoli; I was born at Tivoli, but I dwell at Rome.

Where were you living at the time you were first introduced to her royal highness? I was returning at that time from France to Rome.

How long had you been in France? Till the year 1816.

How long had you been in France at the time you were returning, how many years? I remained in France till the end of the year 1815, then I went to Milan, and then I went to Rome in the year 1816.

You left France at the latter end of the year 1815? Yes.

Were you in the army at the time you left France? No; when the army of the Loire was disbanded, I left the service.

How long did you remain at Milan in your way to Rome? Till the month of November 1816.

You remained at Milan from the end of November 1815, till the end of November 1816? I remained at Milan from the beginning of the year 1816, till some days in November.

Where were your family at that time living, at Milan or at Rome? Always at Rome.

What was the occasion of your staying so long at Milan at that time? Because I had commanded a regiment; and because I had some accounts to settle with government.

Are you to be understood that you remained there during the period you have mentioned, for the purpose of settling your accounts? Some credits that I had towards government.

What regiment were you in when you were in the army of the Loire? In the army of the Loire, I was in the etat major of general Reillé.

Did you belong to a French regiment at that time? No, I belonged to the etat major of general Reillé.

How long had you been upon the staff with general Reillé? Till the army of the Loire was disbanded.

For how long before it was disbanded? From the retreat of the army, till it was disbanded.

For what period? After the battle of Waterloo, when the army retreated upon Paris.

How long before the battle of Waterloo had you been in the French service? I entered the service of France about that time; after I was released from being a prisoner in Russia, I went to France.

How long had you returned from Russia, before you entered into the French service again? From the 18th of February, as I have just stated.

In what year? 1815.

Were you in the service of the king of France before the return of Bonaparté? Never.

Did you not say you were in the French army in February 1815? No.

What month in the year 1815 was it that you entered into the French service? I entered the French service in the month of May.

What regiment was it that you went to Milan to settle the accounts of? The dragoon of Napoleon.

How long before the time of your return to Milan was it that you had served in that regiment? How could I go into the regiment before I went into Italy; the regiment itself had been raised in Italy; it is a question that I cannot understand.

What regiment is it that you went to Milan to settle the accounts of? When I went in the year 1814 the army of Italy had been disbanded; when I came from Russia the army of Italy had been disbanded; and I went to Milan on the 18th of February, and then passed to France.

Have you not stated that when you went to Milan in the year 1816, you remained there for the purpose of settling some regimental accounts? Yes, because the Austrian government had established there an express commission charged with that.

Was it in the month of November 1816, you were first introduced to her royal highness at Como? Yes.

How long have you known Pergami? I knew him then for the first time.

You stated that you afterwards saw her royal highness at Rome, was that the first time that you saw her royal highness after you had seen her at Como? This was the first time.

Where was it the proposition was made to you to join her royal highness's suite? It was at Pesaro, when I went there on the 11th of November 1817.

Who made the proposition to you to join her royal highness's suite? Her royal highness caused it to be said to me by her chamberlain Pergami.

Then it was Pergami made the proposition to you? By the order of her royal highness.

Was that what Pergami said to you at the time? Yes.

In what situation were you in her royal highness's suite, when you first joined it in

consequence of that application? I want to know whether the question is applied to my family, or to the service of her royal highness.

The question refers to the situation you were in in her royal highness's suite, when you first joined it? I had no fixed employment then.

How long was it then before you became chamberlain? It was on the 4th of November of the following year, 1818.

Did you continue with her royal highness from the month of November 1817, when the proposition was first made to you to join the suite, till the following month of November, without any particular employment? Yes, without fixed employment.

How long did you continue her chamberlain? Till last February.

Where was it you quitted her royal highness's service? At Rome.

How long have you been in England? About two months, or two months and a half, thereabouts.

Did you come to England alone, or in company with any other person? I came in company with count Schiavini.

Do you live in her majesty's family now? Her majesty has done me the honour to permit my being in the house, but I do not form a part of the family.

Have you been in the house of her majesty ever since your arrival in England with Schiavini? On the following day that I arrived in England with Schiavini, her majesty sent for me, and had the kindness to make me lodge in her house.

Did Schiavini come with you from Rome? No, he came with me from Pesaro; I went through Pesaro to take him, and he came with me here.

When was it you went to Pesaro? When I came here.

Had you remained at Rome from the month of February, when you quitted her majesty's service, till the time you quitted it for Pesaro in your way here? Yes, in the country near Rome, on a small estate of my own.

Who paid the expenses of your journey to England? I believe it has been government, for I have been indemnified by the advocate of her majesty.

Whom do you mean by the advocate of her majesty? I cannot name them, because the count Schiavini, who has received the money, has given me my share; but I know that the money has come from them.

The Interpreter was asked whether the word *avocato* meant merely an advocate, and answered, that it referred to any person who had to do with the law—an attorney, a counsel, and sometimes a judge.

Who was the person who applied to you to come to England? Nobody has spoken to me on the subject, but I thought it my duty to write to the Queen when I heard that a process was making, as I saw from the newspaper of Lugano.

When did you see Pergami last? At Rome, when I left the service of her majesty.

Have you seen him since? No.

You said that Schiavini paid your expenses here, or let you have money to pay them; have you received any thing besides your expenses for coming here? Nothing.

How much was it that you received from Schiavini? Eighty-five pounds sterling.

How long or how often were you at Como, in the month of November 1816? I was at Como once only.

You have been asked about her royal highness's setting out from Rome for Singaglia, and you have stated that Mr. Hownam and Vassali went upon that occasion, are you to be understood that they were in the same carriage? I have not said that I was on that journey.

You were understood to say, that you saw them set out? Yes, I did; they were in two separate carriages.

Who went besides Mr. Hownam and Vassali, what other persons? Those whom I have mentioned, and the two femmes de chambre of her royal highness, Mr. William Austin, Louis Pergami I think, and I remember no others.

Are those all that you recollect? Those I remember; I do not remember any others.

Was Schiavini one? Schiavini set out on the day after.

How many carriages accompanied her royal highness? I think two besides her own; two or three, but two I am certain of, I do not remember the third.

Do you know the courier Sacchi? I do.

Did you see Sacchi set out on that occasion? No.

Will you swear that Sacchi was not the courier upon that occasion, one of the couriers? I did not see him; I swear I did not see him; I saw Carlo Forti set out, and I did not see other couriers set out.

What time did Carlo Forti set out? Together with the carriages of her royal highness.

Do you mean from the Villa Brandi, or from whence? From the Villa Brandi.

How often have you seen Sacchi at the Villa Brandi? Almost every time that I had the honour of going to dine with her royal highness.

Was Sacchi at that time one of the couriers? I do not know whether he was a courier of her royal highness, for I saw him dressed as a hussar.

Do you remember afterwards, at Pesaro, Sacchi being an equerry of her royal highness? When I went to Pesaro Sacchi was no longer there; he had left the service of her royal highness.

You have mentioned that there was a lady of the name of the baroness Aniajani, who was one of the ladies of honour of her royal highness at Rome; how long did she remain

one of the ladies of honour of her royal highness? During the whole time her royal highness staid at Rome.

Do you mean at Rome or at the Villa Brandi? At the Villa Brandi which is within the city of Rome.

Did she live in the house? She came every morning, and remained there during the whole of the day: I saw her always there.

You have mentioned the names of several of the Italian nobility who visited her royal highness at Rome, can you mention the names of any English ladies who visited her royal highness at Rome? On the days that I went to dine there I do not remember to have seen any; I have seen some of the Roman nobility, but I do not recollect to have seen strangers.

At Pesaro did you ever see any English ladies? No, I did not.

Did Louis Pergami dine at the table of her royal highness? Sometimes he did.

Did he not always dine there when he was at Pesaro? I did not see him always.

Do you know Pergami's sister Faustina? I do.

Did she dine at her royal highness's table? Never.

The mother of Pergami, was she at Pesaro when you were there? She was there for a little time.

When she was there, did she dine with her royal highness? Almost never, for she was always ill.

Did she ever dine with her royal highness? Yes, sometimes.

Do you know the wife of Pergami? I do not.

You have never seen her at Pesaro? Never.

Re-examined by Mr. *Tindal.*

You have been asked whether you ever saw the wife of Pergami at Pesaro, have you ever seen your own there? Never, she never came to Pesaro.

You have been asked, whether any English ladies visited her royal highness at Rome; do you know whether there were any English ladies of consequence at that time at Rome? I do not know.

What part of the year was it you are speaking of? 1817.

What part of the year, what season? In the months of June and July.

Is that the season when the Malaria prevails at Rome? It begins then, certainly.

You were asked whether at Pesaro any English ladies visited her royal highness; do you know of any English families being there? None.

Examined by the *Lords.*

Lord *Ellenborough.*—You say, count Schiavini left Rome the day after her royal highness left for Sinigaglia; at what hour did he leave Rome? He set out on the following evening, together with the equipage.

What equipage? All the articles of property that her royal highness had left behind; all the luggage.

Earl of *Liverpool.*—In what situation was Faustina in her royal highness's family? I think she was charged with keeping of the effects, of the linen; but it is a thing that did not belong to me, and I do not remember. I beg you will say to these noble lords, that I cannot know with certainty, because it was not my own department, and I did not go about inquiring into those details.

Earl *Grey.*—Were you acquainted with Sacchi before he entered the service of the princess of Wales? I had known him at Rome.

Did you know him when he was in the army of Italy? Never.

Earl of *Lauderdale.*—Where did you see the Lugano newspaper that first informed you of the proceedings against her royal highness? At Rome.

The Witness was directed to withdraw.

Ordered, that the further consideration and second reading of the said bill be adjourned to to-morrow morning ten o'clock.

HOUSE OF LORDS.

Saturday, October 21.

The order of the day being read for the farther consideration and second reading of the Bill, intituled "An Act "to deprive Her Majesty Caroline Amelia "Elizabeth of the Title, Prerogatives, "Rights, Privileges, and Exemptions of "Queen Consort of this Realm, and to "dissolve the Marriage between His "Majesty and the said Caroline Amelia "Elizabeth;" and for hearing counsel for and against the same; Counsel were accordingly called in.

Then Lieutenant *Hownam* was called, in order that he might produce his diploma of the order of Saint Caroline; but not being in attendance, the attorney-general of the Queen tendered the same to the House, stating that it came out of the custody of Mr. Vizard the Queen's solicitor. The Counsel were informed, that it must be delivered in by lieutenant Hownam himself.

Then *John Allen Powell,* esq. was again called in, and farther examined by the *Lords* as follows:

Lord Chancellor.—You have been directed to attend, to deliver in certain papers sealed, are you prepared to deliver in those papers? In obedience to the orders of the House, I hold in my hands the papers which are required of me, and I beg it may be considered by the House, that my objection to the production of them did not arise from any thing personal to myself, but from a sense of the character in which I stood.

The Marquis of *Lansdown* suggested, that Mr. Powell should be desired to state what the papers were which he had brought.

The Earl of *Lauderdale* could not concur in this suggestion. Mr. Powell had received an order of the House to present certain sealed extracts: he had now presented those extracts in the manner ordered by the House. Surely, therefore, it was for the secret committee to which the papers were ordered to be referred, to see if Mr. Powell had complied with their lordships' order. He could not see why the House should at first proceed to put any questions whatever to Mr. Powell.

The Earl of *Carnarvon* said, that in his opinion the suggestion was a proper one for examining Mr. Powell now as to these papers. He certainly ought to be asked whether the extracts he had brought were the whole of the extracts in colonel Browne's correspondence which related to Restelli's mission, and whether the original letters were also in the House for the verification of the extracts by comparison.

The Earl of *Lauderdale* said, his objection was not that proper inquiries should not be made from Mr. Powell for any purpose of verification that might be thought necessary; but that inquiry, he thought, should be left to the secret committee.

The Earl of *Liverpool* said, he could not see upon what grounds the House could now put questions to Mr. Powell. They had ordered that gentleman to produce certain papers, which they had also ordered should be referred to a secret committee. The papers being now in the House, the first step to be taken was to send them to the committee.

The Earl of *Darnley* was of opinion that Mr. Powell should be asked to describe the papers, and to say whether the whole of the extracts were in the sealed parcel.

Earl *Grey* thought, that at present the plain course for their lordships was to send the papers to the secret committee. It would be quite time enough for the House to take the matter up when the committee had made their report.

The sealed packet was delivered in; and the witness was directed to attend the secret committee at the adjournment of the House.

The Witness was directed to withdraw.

Then *Tomaso Lago Maggiore* was called in, and having been sworn, was examined as follows, by Mr. Wilde, through the interpretation of the Marchese di Spineto.

Where do you live? Near the town of Como.

What occupation do you follow? A fisherman.

Were you at any time employed as a boatman to her royal highness the princess of Wales? Yes.

Do you know Giuseppe Guggiari? I do.

What is he? Another fisherman, as I am, my companion.

Were you ever in a boat with her royal highness the princess of Wales, when Pergami was there? I have been.

Did you ever see either of those persons kiss the other in the boat? No.

In what part of the boat did her royal highness sit? On the left.

Did you sit in such a situation as to see her royal highness? I did.

Had the boat lights in it? She had.

Did you sit in such a situation that, if they had kissed, you must have seen it? I did.

Are you quite sure that you never saw any kissing take place?

Mr. Solicitor General objected to the form of the question.

Mr. *Wilde* said, he put the question in order to ascertain whether the witness was quite certain on this point, and, with this view, he conceived that he had a right to put as leading a question as if he were engaged in a cross-examination.

Mr. Solicitor General maintained, that his objection had not been at all answered by what had just been stated. In examining his own witness, if that witness had stated any thing in contradiction to what had been stated by another witness on the same side, such a question might be; but in the present case he maintained the learned counsel had no right to put a leading question.

The Counsel were informed, that if a witness gives an answer, showing that he has no doubt, he must be taken to swear positively.

Cross-examined by *Mr. Solicitor General.*

How many times have you conducted her royal highness from the theatre at Como to her Villa? Precisely, I cannot tell how many times, but I can positively say ten or twelve times, and even more.

Will you swear, that you have not conducted her as many as twenty times? It might be still more, but I cannot positively state how many times it might have been.

Upon those occasions, when you conducted her royal highness from Como to her Villa, how many boatmen in general were in the boat? Generally ten.

Was it after the theatre at Como was over that you were in the habit of doing this? Yes, I brought her back to the Villa.

Was it then at night? In the night.

Was the part of the boat in which her royal highness sat, separate from that in which the boatmen worked? The boat was all joined, but only it was divided in the middle, as it would be a carriage.

Did her royal highness and Pergami sit on one side of that division, and the boatmen on the other? Six of the boatmen were in the forepart, before the carriage, and four of them were behind.

So that her royal highness and Pergami had some of the boatmen at one end, and some of the boatmen at the other? Yes.

Was there any covering over that part of the boat in which her royal highness and Pergami sat? It was covered at the top, and had glasses in front and behind.

Were there any curtains? There was one curtain in the front, but none behind, because there were the glasses.

Were there any glasses in front? Yes, as well as behind.

Who sat in the carriage besides Pergami and her royal highness? For the most part there was the prefect; there was also a magistrate called Podestà Parri, and a musician, Arnaboldi, a gentleman.

In going from the theatre back to the Villa, did her royal highness and Pergami sometimes go alone? Never; the boat was always full of gentlemen.

Will you swear that the boat was always full of gentlemen in going home from the theatre to the Villa d'Este? Yes.

Where did the prefect live? He sat on one side or the other of the carriage.

Where did the prefect live? He dwelt at Como.

Where did the Podestà live? At Como.

Do you mean to say, then, that they accompanied her royal highness from the theatre of Como to the Villa d'Este every night? I cannot say that they always accompanied her royal highness from the theatre to the Villa, for sometimes they stopped at their own House; but for the most part in the boat there were many gentlemen.

Whom did you come over to this country with? We are twelve or thirteen or fourteen; I do not know how many we are.

Did you see count Vassali before you came here? I saw him at Milan.

Did he examine you as to the evidence you were to give at Milan? No.

Who was it that examined you at Milan, if you were examined there? Advocate Podazzi.

Do you mean Codazzi or Podazzi? They told me Podazzi.

Did he write down what you said? He did.

Did you swear to the truth of it? I did.

Did Codazzi make you swear to the truth of it? He did.

How many times did you swear to the truth of it? I believe twice.

Then did you tell a different story at those two different times? No.

You having told one story, and had it taken down in writing, and sworn to the truth of it, what was the reason that Codazzi made you swear to the truth of it again? I have said about twice, but precisely I cannot tell.

Will you swear, that you were not sworn three times by Codazzi? I cannot say that.

When you say you cannot say that, do you mean that you will not swear that Codazzi made you take an oath three times? I cannot say it; I cannot precisely state the times.

Though you cannot precisely state the times, will you undertake to swear that it was not more than twice? I cannot swear it, because I am in doubt.

Who was there at the time you were sworn in this way? An English gentleman.

What was his name? I do not know.

Was the name Henry? I do not know what name he had.

Was that English gentleman there each time that you were sworn? He was.

How much were you paid the first time that you swore?

Mr. Denman objected to the question, as it assumed that the witness was paid something.

Were you paid any thing, and if so, how much the first time you swore? No.

Do you mean to swear that you were paid nothing? I have received twenty Italian livres.

Do you mean to swear you received twenty Italian livres the first time you were sworn? It was on my setting out on my departure.

Do you mean to say, it was on your departure to come to this country, or on your departure from Como to Milan? From Milan to come here.

Will you swear you never received any money before you set out from Milan to come here? Nothing.

What have you received since? Nothing.

Will you swear, that the only sum of money you have ever received for coming here was the twenty livres? They have been three half francs.

The Interpreter stated, that he had put the question what he meant by three half francs? and that the witness stated, that he meant twenty Italian livres; that he received three half francs, each franc consisting of six and twenty Italian livres.

Will you swear you have not received any thing more, or been promised any thing more? If they will give it to me, I will take it; if they do not give it to me, I came voluntarily.

Do you expect that they will give it to you? My own will has brought me here, and if they give it to me I accept it; if they do not give it to me, I have no claim.

Do you expect that they will give it to you? I cannot say any thing about hope, because I cannot tell the idea of those people who have

told me to come here; if they give it to me, I will take it.

Are you a married man, and have you children? I have a wife and children.

Has any thing been paid to them? There has.

How much? One livre, and my children half a livre.

Do you mean a livre a day? Yes, a livre a day.

How many children have you? Four.

Half a livre for each child? Yes.

Do you pay your own expenses here, or are they paid for you? That I do not know, they have fixed upon two Napoleons a day for the expenses.

Do you mean to say, that those two Napoleons a day are paid for your expenses? I do not know, because we have received no other money than those francs that I have mentioned.

Has any promise been made to allow you two Napoleons a day for your expenses? It has not been fixed upon.

What did you mean then, just now, by saying that the expenses were to be paid, and that they were two Napoleons a day? They have fixed upon two Napoleons, but we till now have received nothing, and we do not know how it shall turn out, how it will be.

What do you mean by saying, that they fixed on two Napoleons, who are they? Podazzi.

When you saw Codazzi, at any of the times when you met Codazzi, did you see, in the presence of Codazzi, at the time the business was going on, a young man with one eye? I have not.

Who was it that took down in writing your deposition, was it Codazzi's secretary? Podazzi.

Codazzi himself or his secretary? Podazzi.

There was no clerk there attending at that time? None.

Where do you live now? We are out of the town.

How many are there of you together? About twenty or twenty-one; I do not know precisely.

How far is it from London where you live? Five or six miles; I do not know precisely.

How far is it from the house where the Queen lives? I have not been to see the house of her majesty, and I cannot tell.

Do you all live together in the same house, the twenty-one? Yes, all.

Do you all dine at the same table? We do.

And breakfast together? Together.

And talk together? All together.

How often have you seen count Vassali or Schiavini there since you arrived? Once.

Have you seen Guggiari there? Who is Guggiari, do you mean Santino Guggiari.

The question refers to Santino Guggiari? I have.

Does he live in the same house? He lives together with us.

How long have you all been there? It is about a fortnight.

Was not it at the request of Santino Guggiari that you came over here? No.

Re-examined by Mr. *Wilde.*

Are you locked in and guarded where you live? No sentinel; there is a key in every door.

Is the door locked in the day time; can you get out when you like? In the house there is a key that locks the door, but we go to bed at night.

For whose expenses is it, that the two Napoleons a day were to be allowed? For the witness.

For how many? For each person they have fixed two Napoleons.

How many francs does each Napoleon contain? We reckon thirteen livres, thirteen livres.

Do you know the difference between a franc and a Napoleon? I cannot make precisely the account, four silver Napoleons make a golden Napoleon.

How much is a silver Napoleon? Six livres and a half of Milan.

When you say two Napoleons for the expenses, what sort of Napoleons? Silver.

Do you know that the government of your country required an allowance to be made to your family, before they would grant passports?

Mr. Solicitor General objected to the form of the Question.

The Counsel were informed, that the more regular way would be, to ask, what was the reason for an allowance being made to his family.

Mr. *Wilde.*—Do you know how the allowance came to be made to your family, for what reason? The government has ordered so.

Did Guggiari stand at the same end of the boat that you did? Who is Guggiari.

Giuseppe Guggiari? Yes, he was in the same part, but behind me.

On which side of the boat did Pergami usually sit? For the most part on the right hand.

On which side did the princess sit? On the left hand for the most.

You have been asked how often you have been sworn, explain how you were sworn, what you mean by being sworn?

The Interpreter stated, that, being interrupted, he had not collected what the witness had said.

Mr. *Cohen.*—He said, when they took down my examination.

What do you mean by saying when you were sworn? Upon the conduct of the princess.

What do you mean by giuramento? Upon the depositions which I gave to Podazzi, there the oath took place, or there was the oath.

Describe all that you did? I have deposed upon all those things that they have asked me, and I have said all those things which I have seen, and upon this the oath was *(Su, di questo é stato il giuramento.)*.

Describe all that you did the first time you saw Codazzi? The deposition.

How was it taken? The deposition was this, that I have said that I had been in the service.

Did you do any thing? How, I do not understand.

What did you do when you took the oath? The deposition of those services which I had done to the princess.

Was there any book there? There was no book.

Was there any cross there? No, I believe not.

Did you kiss any book or any cross? Nothing.

Mr. Solicitor General.—When you took the oath, which you say you have taken, did you hold up your three fingers in this way.

Mr. Wilde objected to the question.

The Counsel were informed, that the Witness having said, that he took an oath, he should be required to explain what he meant by that; and that he might, therefore, be asked when he said he took an oath, what did he mean by that?

Mr. Solicitor General—The witness, on cross-examination, had said, that he took an oath, and his learned friends on the other side, in order to do away the effect of that answer on their lordships' minds, had asked him questions as to the forms of oaths in this country.

The *Lord Chancellor* thought, the best way would be, to ask the witness what he did when he took the oath.

Mr. *Brougham* said, that he and his learned friends had put that very question some five or six times; but the witness, whose intellect was not very acute, always went into an account of what he said, about what the princess of Wales said; and thus they did not seem to make any progress at all.

Mr. Solicitor General complained that his learned friends were by no means fair: first, they put their questions to this witness generally, and then, not being answered to their satisfaction, they put particular ones—such as "Was there a book there?" "Did you kiss the cross?" and so on. Surely, then, he was entitled to ask the witness, whether or no he held up his fingers when he swore, which he understood to be the form of the country.

The *Lord Chancellor* thought there was no occasion for any difficulty on this point. He understood that Mr. Brougham did not hold up his hand against this witness's having held up his three fingers.

Mr. Solicitor General.—At the time when you say you took the oath, did you hold up your three fingers in this form? No, I did not.

There being a doubt whether the Witness had finished his answer, the question was directed to be again proposed.

He told me, swear to tell the truth, but he caused me to make no sign.

When he told you to swear to tell the truth, what did you say?

Mr. Brougham objected to Mr. Solicitor General proceeding in a new cross-examination.

Mr. Solicitor General was informed, that he might request one of their lordships to put the question.

Mr. Brougham stated, that he had no objection to its being now put.

The Question was proposed to the Witness.

What did I say, what did I do, to say the whole truth, to state as I have said.

Examined by the *Lords*.

Earl *Grey*.—Did you ever take an oath before any tribunal at any time? No.

Lord *Ellenborough*.—Did the rowers in this boat sit or stand? They stood.

Were not their faces towards the head of the boat? Towards the head.

How many rowers were there on that side of the carriage which you have described, which was towards the head of the boat? Six.

How many on the other side? Four.

What oar did you pull, counting from the head of the boat? The nearest to the carriage.

Which oar did you pull in the boat, counting from the head? That nearest to the carriage, behind the carriage, the nearest to the princess; there were two others behind me.

Did Guggiari pull the second oar from the stern? Yes.

Did you pull the fourth? The fourth oar, close to the carriage.

Earl of *Lauderdale*.—Have you of late years found any defect in your eyes? About two years since they began to fail; I had been ill.

Did Guggiari, on all occasions, sit in the same position in the boat in relation to you when you and he rowed in the boat? In the same place.

Can you swear that Guggiari never was in the boat rowing the princess from the theatre, when you yourself were not there; I cannot say that I was there every time.

Earl of *Cathcart*.—You have stated, you rowed the oar nearest to her royal high-

ness, in that situation could you see over the awning, what you call the carozza? I could not.

How high did it come? As much as that [*About two feet.*]

Marquis of *Buckingham.*—Are the silver Napoleons, which you have mentioned having been allowed for the daily subsistence, what are commonly called five-franc pieces? No, they are called Napoleons.

How many livres do you conceive they consist of? You may make the account yourselves, I say that those Napoleons are six livres and a half of our money.

The Witness was directed to withdraw.

Then Chevalier *Carlo Vassali* was called in, and having been sworn, was examined as follows, by Mr. Denman, through the Interpretation of the Marchese di Spineto.

Of what place are you a native? Of Milan.

Do you understand English at all? A little.

What is your profession? I have the honour of being an equerry to the Queen of England.

Are you in any profession? None.

Have you been in any? I have been a military man.

What rank did you hold in the army? My last rank was captain in the dragoons, commanding a squadron in the late disbanded royal Italian army.

When did you first become acquainted with her royal highness? At Turano, at the Villa of general Pino.

Had you afterwards the honour of seeing her royal highness at general Pino's at Milan? Yes.

Did you dine with her at general Pino's? Yes.

In what year was that? If I remember well, about 1816 or 1817.

Do you know Pergami? I do.

Was he there at the same time? He was.

Did he dine at general Pino's? He did.

Did her royal highness invite you to accompany her on any journey at that time? Yes.

What journey? From Milan to Turin.

Did you accompany her royal highness at that time? From Milan to Turin.

Did you afterwards accompany her royal highness in her tour to Germany? Yes.

Before you set out on that journey, did her royal highness employ you in any situation in her household? I set out from Milan performing the office of vice-equerry or sub-equerry.

How long did you continue in her royal highness's service? Till the time her royal highness went to Caprili.

Do you remember what time of what year that was? I believe in the year 1818.

Endeavour to recollect yourself, whether that date is right? I have said I believe it was at such a time; the exact time I do not remember.

Did you enter into her royal highness's service at any subsequent time? Yes.

In what capacity? As equerry.

Have you continued in that service from that time to the present, as far as St. Omer's? Yes.

Was Pergami in her service at all the times when you were? He was.

In what employment? As a chamberlain.

Had he any thing to do with the management of the household, and the hiring of the servants? He had the direction of the house.

Was it his duty to hire the servants and dismiss them? I believe it was his duty.

Have you seen the princess and Pergami walking together at different times? I have.

Did you ever see them walking alone? Sometimes; going out from the garden under the portico.

Have you seen them riding out together on horseback or in carriages? In a carriage with others.

Did you ever see them riding or walking without attendants, except in the garden and immediately round the house? I have said, that in walking I have seen them coming out of the garden and walk under the portico solely; but by saying solely, they were not alone, for when I saw them I was myself at a little distance.

Do you know whether Pergami was received at the tables of the neighbouring families of distinction? Of what neighbourhood.

Of the neighbourhood of Pesaro? Yes.

Were you with her royal highness at Munich? Yes.

Do you remember whether her royal highness dined with her suite, with the king of Bavaria? Yes.

Do you know whether Pergami dined at the table with the king? I do.

Did he dine with the king? He dined at the table of the king.

Do you know of any civility passing between the king of Bavaria and Pergami? I have seen the king treat Pergami with the greatest affability.

Do you know whether there was any present given? Yes.

Be so good as to mention what it was? A golden snuff-box, surrounded with brilliants, and adorned with the name of the king.

Have you seen that snuff-box in the possession of Pergami? I have.

What was the name that was upon the box? An M. and an I., which signifies Maximilian Joseph.

Was there any crown upon it? No.

Do you remember being at any time at the Barona with her royal highness? Yes.

How long were you there, when her royal

highness was residing there? You must mention the time, for I was there many times.

Were you there at a time when certain balls were given? I believe about six weeks.

Was that the time of the carnival? Yes.

Do you know for whose amusement those balls were given? For the amusement of the suite of the family of her royal highness, now her majesty.

What number of persons might attend ordinarily at those balls or dances? It would be difficult for me to state the precise number, but about fifty people.

Does that include the whole company, her royal highness's suite as well as the visitors, who came? All.

Do you remember whether any of the neighbouring gentry attended those balls occasionally? From the neighbourhood came the family of the tenant.

The tenant of the Barona farm? Yes.

When you say the family came, did their father and their mother come with the children? They were there constantly.

Did you ever see the prefect Tamasia there? I saw him.

The baron Cavaletti? Yes.

Did you see any clerical gentleman there? The curate of the Barona.

Did her royal highness entertain company to dinner upon those occasions? Frequently.

Were the families of the prefect Tamasia and the baron Cavaletti there upon those occasions? Many times.

Were their wives there? Yes.

Their daughters? I do not think the daughters.

After dinner, did her royal highness and her company go in to the room where the dancing was going forward? In the evening.

Did her royal highness and her visitors remain there any length of time? They came into the ball-room, and then her royal highness withdrew into the adjoining room to play.

Do you mean to play at cards? To play at cards or chess, and sometimes to play on the piano.

After her royal highness and her visitors left the room where the dancing was, did the servants and the visitors continue to amuse themselves? The servants did not come in at first, therefore they could not continue; they came in after her royal highness had withdrawn.

Did her royal highness occasionally join in the dance? She came into the ball-room, and sometimes she danced, but seldom.

Be so good as to describe the conduct of the persons who were collected upon those occasions? Most regular.

Did you ever see any thing indecent or improper in the conduct of those persons upon those occasions? Never.

You say you went upon the German tour with her royal highness, were you at Carlsruhe with her royal highness? I was.

Do you remember on what day you arrived at that place? Yes.

Mention the day? The 25th of March.

In what year? I believe 1818.

At what time of the day did you arrive? About noon.

Do you remember where you dined on the day of your arrival? I recollect that perfectly.

Where was it? At the margravine's.

Was the princess there? Yes.

And Pergami? Yes.

Madame Oldi? Yes.

Where did you sup on the first day? At the grand duke's.

Do you remember whether the baron D'Ende was the chamberlain of the grand duke? I remember it perfectly.

Do you remember where you dined the second day? At the grand duke's.

Did her royal highness dine there? Yes.

Did Pergami dine there? Yes.

And the countess Oldi? Yes.

Did Pergami and the countess Oldi remain there the whole afternoon? No.

What did they do? Pergami complained of the head-ache, and caused his sister to accompany him to the inn.

About what time in the evening was it? About five o'clock.

Did her royal highness leave the grand duke's at that time? She remained with the grand duchess.

Did you remain? I did.

Did you come away with the princess? Yes.

At what hour? Late in the evening.

What was done at the grand duke's after Pergami and the countess Oldi went home? Amongst other things, they sang.

Did you sing yourself? With the grand duchess.

On the third day where did her royal highness dine? At the margravine's.

Were you present at that dinner? Yes.

How was that evening employed? We went to the theatre, and then to sup with the grand duke.

Were her royal highness and her suite at the dinner and at the play? Yes.

On the fourth day did you remain at Carlsruhe, or go any where else? We went to Baden.

Where did you dine? At the inn.

At Baden? At Baden.

How far is Baden from Carlsruhe? I should believe about an hour's riding in the carriage.

On the day you went to Baden, where did you and the suite of her royal highness and her royal highness dine? At the margravine's.

Did her royal highness and her suite sleep at Baden on the night of which we have been speaking? On the day we set out, we reached Baden; we slept at Baden.

The following day, when you dined with the margravine, in what manner did you pass the afternoon? In amusement, in society.

Where was that? At the margravine's.

At what time did you return to the inn that night? About ten o'clock.

Have the goodness to mention what you did on the following day? On the following day, I believe, we dined at the grand duke's; on the evening we set out, after having taken some refreshment at home.

In the course of that journey, do you remember having gone with Pergami from Scharnitz to Inspruck about some passports? Yes.

At what time did you set off? We set out after dinner, after twelve o'clock.

About what time did you return to Scharnitz? Between two and three in the morning.

Where did you go on your return to Scharnitz, to what room? Into the room of her royal highness.

Where was her royal highness at that time? She was sitting on the bed—leaning, half-lying.

Was she dressed or undressed? She was covered with shawls, or something like it.

Was any body with her? Yes.

Who was that? There was Pergami, then came Schiavini, and then afterwards the countess Oldi came out of her own room.

What room was that? The room of countess Oldi was the adjoining room to that of her royal highness.

Did you see the little Victorine that morning? Yes.

Where did you see her? I saw her sitting on the bed.

On what bed? Of her royal highness.

Did you see the little Victorine with her royal highness on the bed when first you returned from Inspruck? Yes.

Did you see Mademoiselle Demont? I saw her in the room.

Was she dressed or undressed? Dressed.

Did any officer arrive from the police in the course of that morning after you returned from Inspruck? Not in the morning, but a few moments after our return.

Did you speak to that officer? Yes.

After speaking to him, did you return to the room of her royal highness? Often.

In what manner did you return often, how came you to return often? First, to give her an account we had arrived; afterwards to see whether she wanted any thing; and lastly, to give to her an account of the weather, and that they were clearing the road from the snow.

Did her royal highness's suite make any preparation for setting out from Scharnitz? Yes, we remained up the whole of the night.

You have said that you yourself were often in the room of her royal highness, did you see others of her suite there also in the course of those preparations? Yes, the same that I saw before, from time to time.

Were there beds for the whole of the suite at that inn? Straw.

Where? Below, and in the corridor near to the room of her royal highness.

Do you mean the corridor where the room of her royal highness opened? Yes.

Were the suite lying on straw in that corridor? I saw nobody lie, because every body had got up; because they expected us.

Do you recollect at what time you set out on your journey? At day-dreak.

Had the preparations for sitting out lasted till that time? There were not many preparations to make, because we had engaged the horses the day before.

While those preparations were going forward did you see Pergami? Many times.

Did you see him at any time undressed at all? Never.

Where did you see Pergami? I saw him in the kitchen, on the stairs, at the door, and in the room of her royal highness.

Do you remember, in the course of that tour, being at Trieste? Yes.

How long did her royal highness remain there? A day and a half.

To what place did you go from Trieste? To Venice.

Were you ever at Rome with her royal highness? Yes, many times.

Do you remember one time when her royal highness went from Rome to Sinigaglia? I remember it very well.

How long did the journey last from Rome to Sinigaglia? I cannot say precisely; about three days.

Do you remember in what carriage her royal highness then travelled? Very well.

What was it? An English landaulet.

Do you remember who travelled with her royal highness, and, if you do, mention? Countess Oldi, Pergami, and little Victorine.

Who travelled as courier to her royal highness from Rome to Sinigaglia? I saw Carlo Forti on horseback.

Did you see Sacchi on horseback as courier during that journey? No.

How long had Carlo Forti been in the service? He began the service at Rome definitively, but provisionally he began from Loretto.

Can you state the occasion on which Carlo was provisionally hired at Loretto? As Forti was acquainted with the city of Rome, being a Roman, he was sent with a dispatch for this object.

Was Sacchi a courier in her royal highness's service at Loretto? Yes.

Was he sent to Rome with any dispatches? Not that I know.

Do you remember any circumstance that prevented his being sent? I believe they spared him because he was tired; I do not know it, but I believe so.

Do you remember whether the princess or Pergami had any padovanello? No.

Do you know whether any of the suite had any padovanello? I think that Louis Pergami had one.

Will you describe what sort of a carriage that was as to the springs and so on? A pa-

dovanello is a carriage which can contain but one person, without springs, and with two shafts and two wheels.

Did you ever see her royal highness ride in such a carriage as that? Never.

Have you ever seen any dance performed by a person of the name of Mahomet? Very frequently.

Was that ever in the presence of her royal highness? Sometimes, I believe, she saw it from the window.

Upon those occasions did Mahomet do any thing indecent with his dress? It was a most simple dance; by no means indecent.

Be so good as to mention whether, when her royal highness was residing at Pesaro, persons of rank were in the habit of visiting and receiving visits from her? She received all the persons of condition of Pesaro.

Do you remember the legate? Very much.

Was he frequently at her royal highness's villa? At one time he was very frequently.

Do you mean that he paid visits of some days occasionally? Those visits lasted some time.

What is the name of that legate? Monseigneur Gandolfi.

Do you remember the marquis Antaldi? I remember three brothers of the name of Antaldi.

Did any of them hold any office? Two had no employ, one was an architect; he was an architect for amusement, not by profession.

Was either of them a prefect? No.

Were those persons in the habit of visiting her royal highness? Very frequently; almost every day.

Did any of them hold any office under government? Yes, the marquis Antaldo Antaldi.

What office was it? He was at the head of the commune of the district of Pesaro.

Did Pergami visit in their houses? In all houses.

Do you know whether he was received by persons of distinction when he was not in attendance upon her royal highness? Yes.

Was he so received? I have said he was received.

Have you been at the houses of such persons with Pergami? Many times.

At Rome was her royal highness in the habit of frequenting intercourse with persons of rank and distinction? With the first nobility of Rome.

In all the times when you have seen her royal highness and Pergami together, have you ever witnessed the smallest impropriety of conduct on the part of either towards the other? Never.

How long have you served in the army? From the year 1805 till the year 1815.

Have you the honour to bear any orders? I was honoured with the order of the iron crown at my return from the Russian campaign.

Cross-examined by *Mr. Attorney General.*

You say you were in the army from 1805 to 1815, what was your rank in the army when you first entered it? A guard in the guard of honour, in the first company of the viceroy of Italy.

Do you mean one of the common soldiers, or had you any other rank in the army at that time? When I say guard, I mean a simple soldier in the guard of honour.

What guard of honour? The guard of honour of the king of Italy.

When was the first time that you were in company with her royal highness? At Turano, a country house of general Pino.

About what time was it, that you were first in the company of her royal highness? After she had returned from the long voyage.

In what year? I believe it was in 1817.

How often had you seen her royal highness before you were invited to go with her to Turin? I saw her at Turano; I saw her at the house of general Pino, and I saw her at the Villa d'Este.

Had you seen her only three times before you were invited to accompany her to Turin? I have not said that I saw her three times; I only said, that I saw her in three places; I saw her several times.

Who was it that applied to you to accompany her royal highness to Turin? Her royal highness herself.

Where? At the Barona.

You have said, that when first you entered her royal highness's service your office was that of sub-equerry, what salary had you attached to that office? Nothing.

What salary had you as equerry? Two hundred Louis a year.

How long did you continue sub-equerry? Till we arrived at Caprili.

When was that? I believe it was about the year 1818.

When was it you first quitted her royal highness's service? I did not leave the service of her royal highness; I received a letter of dismissal at St. Omer's to retire.

Do you mean to say, that from the first time you entered her royal highness's service, to accompany her to Turin, you remained with her till you came to St. Omer's? I set out from Caprili to Milan with dispatches; and I was absent from the family a whole year, for affairs of my own family.

When was it you set out from Caprili to Milan with those dispatches? On the day after we reached Caprili.

Did you rejoin her at Caprili, or where was it you rejoined the princess after you had been that year at Milan? I did not leave the service; I went to Milan with dispatches; I remained there for affairs of my family, and I was recalled back to the Villa Vittoria by a letter.

The Villa Vittoria is at Pesaro, is it not? A mile distant from Pesaro.

In what year was it you joined her royal highness at the Villa Vittoria? 1819.

Are you to be understood that you continued with her royal highness from that time till you left her at St. Omer's? Yes.

You have said, that you accompanied her royal highness to Munich, and that Pergami dined there at the king's table, did he dine there more than once? Yes.

How often? I cannot precisely say.

How long was her royal highness at Munich? I believe between ten and fifteen days; I do not know precisely.

Where did she dine the first day when she arrived at Munich? I believe at the inn.

Where did she dine the second day? I think with the king.

Where was she in the evening of the second day? I do not know.

Where did she dine the third day at Munich? I cannot mention precisely where we dined every day.

Where did she spend the third evening at Munich? The third day I do not know.

Where did she dine on the fourth day at Munich? I have said that I cannot fix where she dined precisely every day.

Where did she pass the evening of the fourth day at Munich? Some evenings we spent at the king's, some evenings at the prince Beauharnois; but I do not know which each evening. I do not know how to fix how we passed each evening precisely.

Do you remember how many times you dined with the king at Munich? With the king, I believe twice; and at the state table of the king, I believe two or three times, or thereabouts.

Where did you go from Munich? I believe, but I cannot precisely say, to Nuremberg.

How long did you stay at Nuremberg? I believe two days.

Where did you go from Nuremberg? I do not remember.

You do not remember to what place you went from Nuremberg? Precisely—no, I cannot tell.

How long were you upon that tour? I should suppose three months, thereabouts.

How many days were you at Carlsruhe? From the 25th to the 30th of March.

How many days? Six days, including the days of arrival and of setting out.

What time of the day did you set out from Carlsruhe? In the evening.

Before or after dinner? After dinner.

How far is the inn at Carlsruhe from the grand duke's palace? I cannot precisely state, it is little; about three minutes riding in a carriage.

How far is the margravine's palace from the inn? Nearer than that of the grand duke.

At what hour did you dine at Carlsruhe, when you dined with the grand duke? About three o'clock.

How long did you sit at table, during and after dinner? About an hour and a half.

What time did the evening parties or the theatre begin? The theatre began at one hour, and the Conversazione at another.

At what hour did the theatre commence? I believe between half past five and six.

At what time did the evening parties—the Conversazione commence? There was no fixed hour.

About what hour? About half past seven or eight.

Where was it you dined at Carlsruhe the first day? At the margravine's.

Was Pergami there? Yes.

Are you quite sure that he dined there the first day? Yes.

Where did you dine the second day? At the grand duke's.

Did Pergami dine there? Yes.

Will you swear that he dined there that day? Yes.

Did he dine in company with her royal highness every day you were at Carlsruhe? Yes.

What day was it after your arrival at Carlsruhe, that Pergami you say was taken ill? On the second day.

About what time was he taken ill? After dinner.

Soon after dinner? From half past four to five o'clock.

You say that he returned to the inn, did he rejoin your party that evening? When we went home.

About what time did you return home? I believe between half past seven and eight.

What makes you remember so precisely where you dined every day when you were at Carlsruhe, and you cannot recollect where you dined when you were at Munich? A man may remember one thing, and may not remember another, without being able to assign any cause.

You have said, that when you returned with Pergami to Scharnitz, you returned between two and three o'clock in the morning; is that so? Yes.

What time that morning did you set out from Scharnitz? At day-break.

About what hour? I should think between six and seven; towards seven o'clock.

What month was it? I know it was very cold, it was during the winter; but I cannot remember the precise month.

Was it broad day-light when you set out? Neither light nor dark, it was about day-break.

Then it was not broad day-light? About day-break, we might see very well.

What preparations were you making for the journey you have been talking about, after your return? For the country people to go and clear away the snow, for we could not travel without taking away the snow.

What preparations were you making at the inn? I have not said that they were making

preparations; I have said that preparations were made, and I meant, that is to order the country people to clear away the snow.

Did not you go to rest after your return from Inspruck? No.

You sat up the whole night or morning? Yes.

What were you about during the whole of that time? I have said, that I went often backwards and forwards into the room of her royal highness; we went and prepared something to eat for ourselves, for there was nobody that could do it for us.

How many times did you go into her royal highness's room? Many times, without being able to mention the precise number.

For what purpose did you go so frequently into her royal highness's room? Sometimes to give her something to eat, sometimes to mention about the weather, sometimes to tranquillize her mind about clearing away the snow, because she wanted to set out immediately; and sometimes to ask her what she wanted.

Did you carry her something to eat? No; but I entered her room when they carried it.

What time was that? It was about five or six.

Was that shortly before you set out? Naturally, we set out about seven.

Where did you see Pergami during the course of that morning? In many places.

What was he doing? The same that we were doing.

You were understood to say, you were doing nothing, you were not making any preparations? A person is not easy, he is always in movement when he is obliged to wait upon a personage of that quality; a per- is in eternal movement.

How far is Scharnitz from Inspruck? Do you wish to know the distance in miles, or in regard to the time that a person is requisite to employ?

In miles, if you know? In miles, I do not know precisely.

How long were you in going from Scharnitz to Inspruck? About four or five hours, thereabouts.

You went back from Scharnitz to Inspruck? Yes.

With Pergami? Yes.

On horseback? No, in a sledge as far as a certain place, and then we went in a carriage by post.

At what time did you set out from Scharnitz to go to Inspruck? I believe about noon.

Where did you come from when you first arrived at Scharnitz? We came from Inspruck; we passed through Inspruck.

Had you travelled from Inspruck to Scharnitz on the same day that you returned from Scharnitz to Inspruck? I believe we stopped in a bad inn, but about the time I cannot precisely state.

How long had you been travelling on that day when you arrived at Scharnitz? I cannot precisely state.

About how long? Do you wish to know when I went there with her royal highness, or when I went there alone?

You accompanied her royal highness to Scharnitz? Yes.

How long had you travelled on that day when you arrived at Scharnitz? I do not remember.

Do you remember at what time in the morning you had set out on your journey on that day? From where.

From the place that you came from to Scharnitz? I do not.

Had you been travelling many hours on that day when you arrived at Scharnitz? Some hours, but I do not know the time precisely

Did you stay at Scharnitz, or did you immediately return to Inspruck, in consequence of the mistake about the passports? I remained a very little time, about an hour.

Then you returned about two or three o'clock in the morning; were you not very much fatigued with your journey? For a man who has performed campaigns, it is not possible to be tired so.

Will you swear that after your return from Inspruck, you never lay down to sleep till you set out again? I swear it.

Were you never lying down upon the straw, for the purpose of resting yourself? Never for a moment.

Did Pergami repose himself at all after his return from Inspruck? I did not see him rest.

Were the carriages unloaded at Scharnitz? No.

How many carriages accompanied her royal highness, when she went from Rome to Sinigaglia? Four.

At what time did you set out from Rome? About ten in the evening.

It was very hot weather, was it not? Not during the night.

In the day? During the day, very much.

Who travelled in the first carriage? Her royal highness, countess Oldi, Mr. Pergami, and the little Victorine.

Who in the second? I believe Mr. Hownam, mademoiselle Demont and mademoiselle Brunette.

Who in the third? Mr. William Austin, myself, and a servant on the box.

Who in the fourth? I believe they were servants.

Was Louis Pergami upon that journey? No.

Camera? I believe not.

What servants were there in the fourth carriage? If I do not deceive myself, there were Soliman, and a Greek servant, whose name I do not remember.

Where did you stop the first morning after you set out from Rome? At Otricola.

Where the second? I believe at Nocera.

Do you remember whether it was the intention of her royal highness on the second morning to have stopped at a place called Foligno? I did not know the intention of her royal highness.

Do you remember any person being sent on from Foligno to order horses for the purpose of continuing the journey to Nocera? I do not.

Where did you arrive on the third morning? I do not know precisely whether we arrived at Sinigaglia, or whether it was the fourth day.

Do you remember stopping at Fano? Yes.

How long did you stop at Fano? I think a little time; an hour, or two hours; I cannot precisely state the time.

At what time did you arrive at Fano? It was during the day, but I cannot precisely state the hour; it appears to me it was daylight.

Do you remember seeing the theatre at Fano? I saw it, but not with her royal highness.

Do not you remember visiting some friend of yours at Fano while you were there? I do.

Did not you desire Forti to apprize your friend at Fano that you should be there, and see him? Yes.

Did not Forti set out before you to Fano, and did you not desire Forti, on his arrival at Fano, to apprize your friend that you were coming? I believe he arrived a few moments before.

Did you not desire Forti, when he set out from the stage preceding, to apprize your friend at Fano that you were coming there? I did not order Forti to go before, to tell to my friends; but I told him, if he should arrive at Fano before us, to tell my friend that I was coming.

Do you remember seeing Sacchi at Fano? No.

Will you swear you did not see him at Fano? I swear it.

Do you know a place called Terni? I do.

Do you remember stopping there in your way to Sinigaglia? Yes, I think we stopped at the Piazza.

Do you remember taking any refreshment there? Something; but I do not know what thing.

Do you remember taking some ices there? Not I.

Did any body else? I have said I do not know what they did take.

Did they take any refreshment? Something; but I do not know whether it was hot or cold.

Where did you take it? I think in the carriage.

Who brought you the refreshment to the carriages? The servants.

What servants? I do not know.

Will you swear that Sacchi did not bring you some refreshment upon that occasion? I swear that I do not remember to have seen Sacchi.

Will you swear that he was not there? I repeat again that I cannot swear that he was not there.

Do not you remember Sacchi's coming to William Austin upon that occasion, and speaking to him about the refreshment? No.

Will you swear that in the course of that journey you did not see Sacchi? I swear that I do not remember to have seen him.

Will you venture to swear, that he was not upon that journey as a courier? I cannot swear; I cannot say whether he was or was not, for I do not remember to have seen him.

Did the countess Oldi, during the whole of that journey, travel with her royal highness, or did she not occasionally change carriages? Always.

What time did you arrive at Sinigaglia? I think by day.

At what time of the day? If I am not mistaken, before dinner.

Will you swear, that it was not in the afternoon, about four or five o'clock? When I do not know a thing precisely, I do not swear.

Then you do not remember the precise time that you arrived at Sinigaglia? No.

How many days was it after you set out from Rome, that you arrived at Sinigaglia? Three or four days.

Do you know a person of the name of Racchi? I do.

Was he on that journey? He was.

Where did he travel, in what carriage? On the box of the carriage.

Which carriage do you mean? Of the carriage in which the femmes de chambres and Mr. Hownam travelled.

You have spoken of the balls at the Barona, and you have said that a person of the name of Cavaletti used to be at those balls; was Cavaletti in her royal highness's service at that time? No.

Where did he live? At Milan.

Do you know a person of the name of Antongina? I do.

Were his daughters at the ball? They were.

What is Antongina? A tenant of the Barona.

Besides Tamasia and Cavaletti, can you remember the names of any other persons of rank, who were ever at those balls? Yes.

Who were they? Doctor Mocatti, and the clergyman of the barona.

Any body else? I do not remember precisely.

You say there was dancing there, did you dance with the rest there? I did.

You say you know the daughters of Antongina, did you ever see any of them in any other room of the house besides the dancing room? Never.

Or any other of the females who were at that dance? Never.

Did her royal highness use to dance with those persons? Sometimes, generally.

Where was your family living, at the time you were at the Barona? At Milan.

Were they at those balls? None of them had been presented to her royal highness before that time.

Do you know the wife of Pergami? I do.

Was she ever at any of those balls? Never.

When was it you last saw Pergami? Last month in coming from Rome.

Where did you see him? At the Villa Vittoria.

Any where else? You asked me to the last time, and I have answered to the last time; I saw him there; I saw him also at Milan.

Did you see him at the Villa d'Este? No, not now.

At the Barona? Yes.

And at Milan? The last time at Milan.

Were you frequently with him? Yes.

And with general Pino? With general Pino I was alone.

Did you not apply to many persons to come over as witnesses upon this occasion? They offered themselves.

Have you not engaged to indemnify several of them for coming over? It is not my character to recruit.

That is not an answer to the question; have you undertaken to indemnify any persons who have come over here? Not I; the whole thing was done by the advocate Henry; I have done nothing.

Have you made no agreement with any of the persons who have come here, to pay them, or indemnify them for coming here? I have not made any agreement; I have executed the agreement which has been made by the advocate Henry.

What agreement have you made at the request of Mr. Henry, and with whom?

Mr. Brougham objected to the Question.

How many agreements have you executed at the request of Mr. Henry? To the poor people, the agreement is ten livres per day for their support, during their absence a franc a day to each of their wives, and half a franc a day to each of their children; this agreement has been made, because the passports would not be granted without securing something for the support of the family.

Have you made no agreement to pay any witness who has come over here, any money, for coming over here? I have made no agreement to pay; Mr. Giarolini, the head master, before I set out, said, that he suffered damage, then the advocate Henry stated, that the English laws granted an indemnification for what they might lose during their absence; consequently it has been ordered, or rather requested, of architect Ratti, that he should make an account of what his loss might be; this was done on a stamped paper, and it has been fixed to be 3,000 livres of Milan; this sum, according to this account made by the advocate Henry, I have paid to the son of the head master Giarolini.

Have you not given money for any persons to give evidence upon this occasion? Not to be a witness, never; I have given, at the departure of eighteen or twenty witnesses, by the order of advocate Henry, a small sum of two or three Napoleons, on account of the ten francs per day, which thing I have explained to all the witnesses.

By whom were you employed to give this money to the witnesses? Advocate Henry has requested me.

How long have you been in England? I have been three times.

When was the first time you came? When her majesty was at Geneva.

When the next time? The second time, when she came from Paris.

You were understood to say, you left her royal highness at Saint Omer's? It is true.

How long after that was it that you came to England? Six or seven weeks.

What was the occasion of your coming to England then? I was sent for.

By whom? By her majesty the Queen.

How long were you in England upon your coming upon that occasion? The second time I was here eight or nine days.

Did you not go out on the part of her majesty to collect witnesses, at Milan, and elsewhere, for her? I was sent to Milan to render it easy for those who wished to come for her majesty to come.

How many persons had you communication with there as witnesses? Forty or fifty.

How many persons came over with you the last time? Two witnesses.

Who were they? One was Bonfiglio Omati, the other was Pasquelle Lago Maggiore.

Did Omati come as your servant? I did not want him, because I had a servant.

That is no answer; did he not come in the character of your servant, and was he not represented to be so? He came as a witness for her majesty the Queen.

Did not you represent him to be your servant when you quitted the Austrian states? Never.

Did you frequently see Pergami when you were at Milan? Sometimes.

Frequently? Frequently.

Every day? No.

Did you not see him every day you were there, either at Milan or at the Barona? No.

Or at general Pino's? At general Pino's, never.

How long were you at Milan? At intervals, two months at a time.

Did you go to Pesaro the last time you were abroad? Yes.

Did you see Pergami at Pesaro? Yes.

Did you travel with him from Pesaro to Milan? No.

Did he go before or did he follow you?

He did not follow me; he came a few days after.

How long were you at Pesaro? Half a day.

What was the occasion of your leaving her majesty at St. Omer's? I had not left her majesty at St. Omer's by my own will, I should have followed her willingly even into England; she thought proper to give me my dismissal.

How many of her majesty's suite left her at St. Omer's? Mr. Pergami, the little Victorine, two maids, and three or four servants.

Did you go with Pergami from St. Omer's? Yes.

Where did you go to with him? To Paris.

Did you take the little Victorine to Paris? Yes.

Did you live with Pergami at Paris? Yes.

Where? At the hotel of Frescati, Rue Richelieu.

Was he there the whole of the time you were at Paris? All the time I was at Paris I was with Pergami.

The whole time at the hotel of Frescati, or in any other place? No, we dismounted at a little inn, where we remained two days, and then we went to the hotel Frescati.

Who paid the expenses of that journey, when you accompanied Pergami? I did.

Did you pay for Pergami as well as for yourself? I paid for the expenses of the journey, and I was reimbursed.

Reimbursed by whom? By Pergami.

In what carriage did you travel from St. Omer's? A carriage for three people.

Was that one of her majesty's carriages in which you travelled up to St. Omer's? I believe it was one of the carriages.

Had Pergami and yourself any more than one carriage? Two carriages.

Were they both carriages that had belonged to her majesty? No.

What was the other carriage then? A German carriage; I do not know to whom it belonged.

Was not that one of the carriages which had accompanied her royal highness up to St. Omer's? It was.

What servants accompanied you and Pergami to Paris? Francesco Serra, Amelio, Carnaghi, Agustino, Govin, and Marsigliani; I believe there was another, whose name I do not remember precisely.

Did you accompany Pergami to Italy from Paris? No, because I was here.

You came from Paris here? Yes.

Did you leave Pergami at Paris, or did he set out? I left him at Paris.

Did you afterwards see him at Paris? Not afterwards.

Where did you next see him after you went abroad again? The first time I saw him at the Villa Vittoria, at Pesaro.

Where did you last see the countess Oldi? At her own house.

Where was that? At Crema.

Had her majesty any lady of honour with her after countess Oldi left her? No.

Did the countess Oldi travel from Pesaro to Crema with her royal highness? I do not think she did; I am sure almost; no.

You were upon that journey, were you not, when her royal highness came to England from Pesaro? Yes.

Did the countess Oldi travel with her any part of that journey or not? No.

Where did you leave Louis Pergami? We left him at Pesaro, I believe, or at Milan.

When did you last see the mother of Pergami? At Milan.

When? Every time I was at Milan.

Have you ever seen Pergami's wife? I have.

Have you ever seen her at the Barona? I believe I saw her one day.

When? When I was the last time at Milan.

Was Pergami there then? He was.

He was at the Barona? Yes.

Where was the little Victorine, do you know? At Paris.

With whom? With two young ladies.

What young ladies? The same that set out from St. Omer's.

The last time that you saw Victorine was at Paris, with two of the servants of her majesty, who had left her at St. Omer's? We travelled together.

You travelled together to Paris? Yes.

Was Victorine in the same hotel with you at Paris, or was she placed in any other house? Yes.

With those two female servants? Always.

Did those servants take care of Victorine? Yes, because they did not like to return home.

Was the little Victorine at the Barona when you were there last? No.

What salary have you now from her majesty? I have no salary; I have a pension.

What is your pension? The same I had when I was an equerry.

How much is that? About two hundred Louis.

How many francs? About 4,800 or 5,000 francs.

Where does your family live now? The family of my father in Milan; my wife in London.

Where is your wife living in London? At Sablonière's hotel.

Where are you yourself living? At the same place.

Who pays the expense of yourself and your wife being here? Till now I have not paid the account; I do not know.

Who is to pay? I believe that being here as a witness for her majesty, it is the government who is to pay it.

Have you received any money from any person since you have been in England? Never; nay, I have not been paid for the journey.

Did you take out any money with you when you went to Milan the last time? I do not travel without money.

Who gave you the money to go out to Milan? To go to Milan, I received 100*l.* from Mr. Coutts.

On whose account did you receive that? For the journey.

Who gave you the order on Coutts to receive the 100*l.* Her majesty the Queen.

Did you not take with you also a letter of credit when you went to Milan? No, nothing.

Did you receive any money from Marrietti while you were at Milan? I received it by the order of Mr. Henry.

How much? I think fifty-two thousand livres of Milan.

Is that all you have received? The whole.

Either there or in England? At Milan, and something whilst I was at Venice.

How much at Venice? I believe a hundred Napoleons, that was all included.

Who travelled with you to Venice? I went there with the son of Mr. Wood.

What did you go to Venice for with the son of Mr. Wood? To acquire some knowledge about a person whom it was necessary for me to know.

Did Mr. Wood travel with you any where else? We went from thence to Milan.

Who paid the expenses of your journey to Milan, when you were with Mr. Wood? I.

Did you travel with any other person besides Mr. Wood, when you were in Italy? With a courier and my servant.

With no other gentleman when you were in Italy? In going from hence to Italy with the son of Mr. Wood, a courier, and my servant.

Whilst you were abroad in Italy, did you never travel with any other persons except Mr. Wood and your servant? Yes.

Who? Mr. Mioni.

Who else, in Italy or any where else, since you have been abroad? In Italy with Mr. Mioni; I do not remember any body else in any other place.

Do not you remember to have travelled with any other persons besides Mr. Wood, while you have been abroad? No.

Are you sure you have travelled with no other person than Mr. Wood, with no other gentleman, English or foreign? I do not recollect.

Where did you travel to, besides Venice and Pesaro? Rome.

Did you go to Switzerland? Never.

From Rome, did you return to Milan? Yes.

What countryman are you? Of Milan.

Have you any other fortune besides the pension you derive from her royal highness? I have some property of my own.

Where is Francesco Serra now? At Hammersmith.

Examined by the *Lords.*

Earl of *Liverpool.*—Do you know whether any person slept in the princess's room at Scharnitz? No.

Do you mean that you do not know whether any person slept there, or that you know that no person slept there? As far as I know nobody slept there.

Lord *Ellenborough.*—Did you say that Carlo Forti was first taken into her royal highness's service at Loretto? I said that Carlo Forti entered her royal highness's service at Rome, and that previously he set out from Loretto with a dispatch.

Did you ever see Carlo Forti in her royal highness's service before you saw him in her service at Rome? From Loretto to Rome, provisionally.

Did you accompany her royal highness in her journey from Milan to Loretto? Yes.

Did you see Carlo Forti on that journey? Carlo Forti set out as a private individual, but not as a courier; they did him the favour to take him, in order that he might see his brother at Rome, not as a courier.

Did Carlo Forti, in point of fact, accompany her royal highness in her journey from Milan to Loretto? No, not as a courier.

Earl *Grey.*—Did he travel in her royal highness's suite in her journey from Milan to Loretto? From Milan to Loretto, he travelled in the suite of her royal highness.

And at Loretto he entered provisionally into her royal highness's service? He did not enter provisionally into the service, but he was dispatched provisionally, just as another courier would have been.

Did Carlo Forti go from Loretto to Rome at the same time with her royal highness, or did he go before? Yes.

He went with her royal highness from Loretto to Rome? Yes.

Are you rightly understood, that on the second night of her royal highness's residence at Carlsruhe she returned from court to the inn at between seven and eight o'clock? Between seven and eight o'clock.

Lord *Calthorpe.*—When you returned from Inspruck to Scharnitz, did you immediately upon your arrival at Scharnitz, go into her royal highness's room? Yes.

Was Pergami with you? Yes.

Are you certain that from the moment of your arrival at Scharnitz continual preparations were going on in her royal highness's room for leaving the inn? I have never said that there were preparations in the room of her royal highness.

Are you certain, that from the moment of your arrival there, there were other persons besides Pergami and the princess continually in that room.

Mr. *Brougham.*—With very great submission to your lordships I must state that this question cannot be put. The question assumes the witness to have said that Pergami rested in that room, a circumstance which he never had stated.

The Question was withdrawn.

Do you know how many beds there were in her royal highness's room at Scharnitz? I saw one.

Do you know what the ordinary time of going from Scharnitz to Inspruck is by the post? According to the road; if there is snow it requires more time; if there is not snow, we go in less time.

About how many hours do you suppose you had been without rest upon your arrival at Scharnitz from Inspruck? In going, in stopping, and in returning, I was from noon till next morniug when we set out.

Do you recollect, in her royal highness's bed room at Scharnitz, whether there was any mattress on the floor of the room? No.

Are you sure there was not one? There was not.

Do you recollect any one place where you saw Mahomet perform that dance which you have before mentioned? Yes.

Did you see him perform that dance at the Villa d'Este? Yes.

Do you recollect whether the princess was present when that dance was performed? I believe that once she was at the window.

Are you certain whether she was at the window or not? I have said that I believe she was at the window; I cannot speak with certainty.

Do you remember any lady of distinction, of respectability and character in your own country, ever having witnessed such a dance? In my presence, I do not remember that there was any other lady.

Do you know whether that dance is called by any particular name? No.

Is it very like any other dance of which you do know the name? No.

Do you ever remember any lady of distinction, or of respectability and character in your own country, ever having witnessed precisely that dance? I have already said no.

Was Mahomet among the servants that were dismissed by her majesty on her arrival at St. Omer's? It was already three years since he had gone away.

Earl of *Cathcart*.—You have stated, that at Munich her royal highness dined with the king of Bavaria, and that you were also present, did her majesty the Queen of Bavaria dine at table on that occasion? She did.

Was that the only time that her royal highness dined at the king's table? Her royal highness dined there several times.

Earl of *Lauderdale*.—When did you last see the countess Oldi? When I went to fetch her, at Dover.

When was that? About a fortnight ago.

Is she now in England? She is.

When did you last see Faustina? I have not seen her for two or three years.

When did you last see Francesco the Raggionato? The last time I was at Milan, about six weeks ago.

When did you last see Bernardo? Also.

When did you last see Pietro? Who is Peter.

The nephew of Pergami? I have not seen him.

Who worked in the stables? No.

When did you last see Carlini? I do not know who Carlini is.

The following questions were put at the request of Mr. Brougham:

Did you see any thing in the dance of Mahomet, as you yourself saw it, which any lady of distinction and character might not in your opinion have witnessed? Without doubt it was a ridiculous dance, no more.

Do you mean, that there was any thing improper or indecent in it? Nothing at all.

When her royal highness returned the second night she was at Carlsruhe, from the palace to the inn, did you accompany her? I did not.

When did you go there? When she returned home, between seven and eight.

That is the time as to which you are asked, did you accompany her? Yes, between seven and eight.

Into what room of the inn did you accompany her royal highness? The saloon.

Whom did you find there? Pergami and his sister, and another person of the suite came to meet her.

Was Pergami dressed at that time? He was in a uniform.

How was her royal highness dressed at that time? I cannot remember how she was dressed.

Do you recollect whether she was in a court or state dress? In a dress of great splendour.

Did her royal highness remain for any time in that room which you call the saloon? Sometime, then we went to the margravine's.

Did you all go together, Pergami accompanying her royal highness, as well as yourself? Yes.

How long did you all remain at the evening party at court after that? Till about ten o'clock.

Earl *Grosvenor*.—Was that the evening that Pergami was indisposed? He went away during the day, being ill; but in the evening he appeared to be no more ill, for he came to accompany us.

Was that the same evening? Yes, the second day.

Earl of *Rosebery*.—Did the princess remain in the saloon the whole evening, from her return from dinner till she went out to the evening party? Yes.

You have said, that you returned from Inspruck to Scharnitz at two o'clock, and that about five o'clock you went into her royal highness's room, at the time she was breakfasting; between the hours of two and five did you go into the bed-room of her royal highness? I never was more than a quarter of an hour, or half an hour, without going into her room.

The Witness was directed to withdraw.

Mr. *Brougham* begged to state, why he was not prepared at this hour to call another witness. He then addressed the House in the following terms: "It is of great importance for me to state to your lordships the predicament in which I and the other counsel for her majesty are placed. We have proceeded thus far with the case of our illustrious client—with what success and fulness of evidence it will remain for the House hereafter to decide. But I now have to submit to your lordships, that we find ourselves reduced to the necessity of requiring the assistance of the Court before which we are acting, and to recur to the demand made upon its justice in the outset of this proceeding, or of that part of this proceeding, which consists of the defence of her majesty. Your lordships will recollect, that, in consequence of the desire expressed by the House, we began that defence by calling a witness who had been sent over to bring from Carlsruhe a person of great distinction, and as a witness not only of the highest importance, but of every importance to the Queen's case; who was to prove not only all that was deficient in our evidence, but to negative the testimony of Kress; who was to follow up all that we had urged against the principle and the particular facts of the bill, by showing, what he alone could show, that her majesty was not the person described in the preamble—that she was not given to low habits—that she did not frequent base company—that she did not skulk from the society of her equals—and, above all, that she did not screen herself from intercourse with her friends and family relations. On the contrary, he was to prove that long after the time to which the evidence for the bill applies—long after her majesty's return from the long voyage—she came into Germany, frequented the courts of her blood-relations and allied connexions, and in their presence placed herself with her suite, whom they received; and that there, and not in Italy, she desired to fix her abode, and had adopted measures for taking a palace, where she might in future remain. She had no wish to skulk from thence, but proposed to stay there for the rest of her days, for aught I know, in the immediate neighbourhood of her serene relatives. After what I have already proved, and after the comments on the testimony on the other side, I should consider this evidence complete, decisive, plenary, and as leaving me not one single stone to remove of the ruins of the structure of the case that has been brought against her majesty. I am still deprived of this material witness, and his evidence is still withheld from the defence of the Queen in the same manner that I complained it had been withheld when the subject was last before the House. I am bound, however, in justice to his majesty's government, to acknowledge, that they have done all that in them lay to remove this difficulty: against their conduct I have nothing to offer; and that we did not sooner apply for assistance to them I trust will not be imputed to us as a fault, when it is recollected that we only knew of the obstruction a few hours before we mentioned it to the House. If we had complained by anticipation, the effect would have been to furnish the other side with a list of our witnesses. But they have used their influence in vain; the baron d'Ende, the chamberlain, who was at first so willing to come until his master refused him leave, is not now to be procured. It turns out again, that when he was applied for by the King's minister at Carlsruhe, who kindly was sent to for the purpose, permission was again refused, at least as he thought, at a private and verbal conference. Afterwards the representation was made in writing, and he was then told by Mr. Berstett, the minister, that permission had not been refused to the baron, only that no steps would be taken to compel him to come. This was stated by the same Mr. Berstett, who, I am in a condition to prove, was the very man who had compelled Kress to come over to give her evidence in support of the bill. It was then communicated to the baron, that he might go to London if he thought fit; but the baron, who was an excellent man, and would have been an excellent witness, was also an excellent chamberlain; he was a chamberlain by profession, and with all the frailties of chamberlain; for no sooner was it announced, that he might come, than it was discovered that he was ill of a fever, as if Restelli's sickness had crossed the Alps to affect him. However, it was asserted to be of serious consequence, and steps were immediately taken by him for a serious cure. This, of course, was to be a long process, and the baron finally refused to come, well knowing, no doubt, what Mr. Berstett was made of, and well knowing also on which side of the question the wishes of some

folks must be. I say, that his majesty's ministers used their utmost endeavours: we do not charge them at all, but they have not had plain honest Englishmen to deal with, but wily, crafty, foreign courtiers, who thought every body they had to deal with as roguish as themselves. These persons paid no attention to the representations of the King's minister; Mr. Lamb used all the arguments he could employ, and he put them forcibly and ably, but all in vain; for we know very well that there is a different inclination at the bottom as to witnesses coming for the bill and against it. Abroad they understand one another a great deal better than we understood our ministers here; and Mr. Berstett having made his representation to the chamberlain, that chamberlain could take a hint; and suddenly, with the easy compliance of an amiable good creature, and of a faithful honest chamberlain, he immediately falls sick of an illness, which it is difficult to say how he acquired, unless by some communication with Restelli. When the papers are presented to your lordships, you will find something to call for comment, but nothing to censure, in the conduct of the King's government. What I have stated is a misfortune to the Queen arising from the nature of her situation. Regarding the conduct of foreign governments, I will not argue, excepting from what I know; but her majesty feels the consequence of this state of things, and is now and for ever deprived of this important, this all-important, witness. I throw myself on your lordships with entire confidence that the court will give due weight to this statement, and will not proceed upon the new and monstrous principle, that a person accused of nine or ten charges, and who has refuted seven or eight of them, though prevented by unavoidable circumstances from giving a complete answer to the rest, is still, for the first time since justice was known in our courts, to be held guilty."

Counsel were then ordered to withdraw.

The Earl of *Liverpool* said, that after the long examination of the witness who had just withdrawn, it had appeared to him sufficiently late in the day not to call another. On this account he had risen to move the adjournment, and also to lay on the table, by command of his majesty, the papers to which the learned gentleman had referred. They had been received yesterday, and government immediately felt it their duty to communicate copies of them to the counsel for her majesty. It was thus that the attorney-general for the Queen had become acquainted with their contents. He was perfectly satisfied, that, when the House should have read these documents, it would be convinced that every effort had been used by ministers to obtain the attendance of the individual named; and he could say most sincerely and conscientiously, that it had been not only their duty, but their wish, for the general purposes of justice, to endeavour to secure his presence for examination at the bar. The learned counsel had therefore done no more than justice to the King's government in saying, that they have left no exertion untried to obtain the attendance of the baron d'Ende. Nothing more remains for me now but to lay the papers upon the table; what operation they may have upon the whole case hereafter, it is not for me to determine.

Mr. Attorney General asked, what course the counsel for her majesty now intended to pursue?

Mr. *Brougham* replied, "I thought it my duty to give the explanation I have afforded why we did not proceed with more evidence to-day. I shall take till the next meeting of the Court to consider what course the counsel for her majesty must now follow."

The following is a Copy of the

CORRESPONDENCE

Relative to baron d'Ende's appearance before the House of Lords as a witness on the part of her majesty the Queen, October, 1820.

DESPATCH *from viscount Castlereagh to Mr. Lamb, dated Foreign Office, October 5*, 1820.

Foreign Office, October 5.

Sir,—I am to acquaint you that the Queen's law servants have this day represented to the House of Peers, that the baron d'Ende, a chamberlain in the service of the grand duke of Baden, and who was assigned to attend upon her majesty when princess of Wales, during the period of her visit to Carlsruhe in the year 1817, is a material witness for the Queen's defence; that the baron had actually consented (subject to the permission of his royal highness the grand duke) to give his personal attendance in London for this purpose, but that, upon his royal highness the grand duke's late return to Carlsruhe, this consent (as the Queen's agent, Mr. Leman, has deposed) was, upon the part of the grand

duke, distinctly refused; and the baron alleged this refusal to Mr. Leman as the sole cause of his not giving his attendance in this country. Had the Queen's law-agents applied in due time to his majesty's government, it would, under the express orders which they had received at the outset of these proceedings from his majesty, and which, in every instance pointed out by the Queen's agents, they have uniformly and faithfully endeavoured to carry into effect, have been their duty to have addressed a request on the part of the king, their master, to the grand duke, to permit the attendance of this gentleman before the House of Peers, for the furtherance of justice.

The legal advisers of the Queen having represented, that they still continue to regard the presence of this individual as of importance to her majesty's defence, and his majesty being solicitous, with the least possible delay, to give effect to their wishes, I have received the king's commands to direct you will, without loss of time, on receipt of this despatch, proceed to Carlsruhe, for the purpose of giving, by your personal representations and exertions, the utmost possible weight to the request which, in the king's name, you are authorized to make to the grand duke upon this matter.

The British government are fully sensible of the respect due to the law and practice of independent states with regard to the means which the sovereign power may either be enabled, or think fit, to employ, for the purposes of inducing, permitting, or compelling its subjects to appear, in order to give evidence before the tribunals of a foreign state; but they are persuaded that, whatever may be the rule which the grand duke of Baden may think fit to lay down on such matters, his royal highness's sense of justice will suffer the benefit or the inconvenience of such rule to operate equally and with perfect impartiality on the side of the defence as well as of the charge. Now, as it appears by the evidence of Barbara Kress, that she was not only permitted, but in some measure required, to give her attendance upon these proceedings in support of the bill, at the instance of the attorney-general, no doubt can be entertained that, when you shall have brought the different course which is stated to have been pursued in the case of the baron d'Ende under the grand duke's notice, his royal highness will at once, whatever may be the temporary inconvenience to his royal highness's personal service, give orders for the baron's being permitted instantly to set out for this country, and, in the present advanced stage of the proceedings, you will consider it your duty to press that this gentleman's departure and journey may be as much as possible accelerated.

I should hope, that the simple statement of this case will be sufficient to give effect to the object with which you are charged; but in the event of any obstacle being interposed, you will make a written representation on the part of your court, pressing this request for the grand duke's favourable consideration, as indisputably due to public justice, under the peculiar circumstances above referred to.

I am, &c. Signed Castlereagh.

To the Hon. F. Lamb, &c.

Despatch *from Mr. Lamb to Viscount Castlereagh, dated Carlsruhe, Oct.* 13, 1820.

My lord,—On the morning of the 10th I received your lordship's letter relative to the baron d'Ende. On the 11th I reached Carlsruhe, and obtained an interview with the baron de Berstett. That minister went immediately afterwards to the grand duke, and informed me, on his return from his royal highness, that the obstacles to the departure of the baron could only be overcome by an official application. The inclosed correspondence will show what steps were taken in consequence, and their result. It may be permitted me to remark, that my application has been completely successful, and that the failure of the object of his mission to this place was to be attributed solely to the unexpected reply of the baron d'Ende himself. I have the honour to be, my lord, your lordship's most obedient servant,

(Signed) F. Lamb.

To Viscount Castlereagh, K. G. &c.

Note *from Mr. Lamb to the Baron de Berstett, dated Carlsruhe, October* 11, 1820.

The undersigned, &c. has learned with regret, that the arguments which he had the honour to allege this morning in conversation with your excellency, have been insufficient to induce the government of Baden to permit the baron d'Ende, chamberlain of his royal highness the grand duke, to proceed to London.

Under these circumstances, it becomes the duty of the undersigned to fulfil the further instructions of his government, by representing officially to your excellency the reasons which induce him, however reluctantly, to renew a demand which has not met with the concurrence of the court of Baden.

The British government is fully sensible of the respect due to the law and practice of other states; it fully appreciates the repugnance which his royal highness the grand duke has felt to the details of his court being made matter of public investigation; and in proof of this, it may be permitted to the undersigned to recall to your excellency, that, upon a previous occasion, when he had requested the attendance of a fourrier of the court as a witness against the Queen, he readily desisted from the application, as soon as he was made acquainted with the sentiments and determination of his royal highness upon this subject. If he now pursues a

different course, it must be attributed to the difference of the circumstances.

The witness in question is represented to be essential to the defence of the Queen. The rights of hospitality will not be violated by his appearance; on the contrary, these seem to require, that the grand duke should contribute to the vindication of the guest of his court.

The permission which is demanded is still more essential to the character of the British government.

With whatever good faith it may act, it will not escape the attacks of malevolence, unless its demand is granted; and your excellency will not have failed to remark, that in this affair it is not sufficient to act with the most perfect purity and good faith, it is also necessary that these should be made undeniably evident to the eyes of the whole world.

The undersigned trusts that these considerations may be of weight enough to induce the government of Baden to change its present determination.

His own character for impartiality, and that of the British government for sincerity and good faith, are equally at stake.

The magnitude of these interests must justify the undersigned for persisting in an application which could, under no other circumstances, have received the sanction of the British government. The undersigned has the honour, &c.

Carlsruhe, Oct. 11th, 1820. (Signed) F. Lamb.

To his Excellency the Baron de Berstett, &c.

Note *from Baron de Berstett to Mr. Lamb, dated Carlsruhe, Oct.* 13, 1820.

Sir,—In reply to the note which your excellency was pleased to address to me on the 11th inst., and in reference to the conversation which I had the honour to hold with you on the same day, I find it necessary in the first place to correct a most material mistake which appears to have crept into our communications.

The object of the propositions made to me verbally by your excellency appeared to me to be, that the grand duke, my august master, should give to baron d'Ende not only his permission, but his orders, to proceed to England; to which I had the honour to remark, that I knew too well the fixed determination of his royal highness, never to take part directly in any thing which might relate to the solemn proceeding at this time before the tribunal of the House of Peers in England, to dare to propose to him to give any such orders to a person belonging to his court. Your excellency will recollect, that when, some time ago, you requested me to obtain permission for one of the fourriers of the court to proceed to England as a witness against the Queen, I was under the necessity of declaring to you, that I could never obtain any such permission from his royal highness.

If any agents of the British government have succeeded in inducing subjects of the grand duke to proceed of their own accord to England, I have to remark to your excellency, that this could never have occurred except in the case of private individuals, not being in the service of the court, or in any official situation, and to whom nothing but a passport from the police is requisite to enable them to proceed wherever they might wish without the government ever having to take notice of such a circumstance.

I hope that your excellency will find in this exposition of facts relating to this object of your mission, the most convincing proofs of the impartiality and justice which have guided, and will ever guide, the conduct of my government on this subject. But as your excellency is nevertheless pleased to persist in your demand, that baron d'Ende should at least not be prevented by a refusal of leave of absence from proceeding to England, in the event of his consenting to undertake this journey; and as your excellency assures me that this witness is deemed to be essential to the defence of her majesty the Queen, his royal highness has ordered me to address immediately to baron d'Ende the letter, a copy of which is annexed, by which that gentleman is left entirely at liberty to act according to his own wishes.

If baron d'Ende's reply, which I transmit in original to your excellency, does not answer your expectations, your excellency will at least see by this last step, taken by my master's orders, that his royal highness, faithful to the principles he has laid down, has had no wish to hinder monsieur d'Ende from acting on this occasion according to his own freewill.

I beg your excellency to accept the expressions of my high consideration.

Carlsruhe, 13th Oct., 1820. (Signed) The Baron de Berstett.

To his Excellency Mr. Lamb, &c.

Note *from Baron de Berstett to Baron d'Ende, dated Carlsruhe Oct.* 11, 1820.

Sir,—One of the Queen of England's counsel having asserted in the House of Peers, that after receiving two letters, written in her majesty's own hand, with the view of inducing you to repair to England to give evidence in her favour, you had, with tears in your eyes, refused to accept the invitation given to you for that purpose by one of her majesty's agents, alleging that an express prohibition from your sovereign rendered it impossible for you to undertake such a journey.

Mr. Lamb, his Britannic majesty's plenipotentiary to the Germanic confederation, has, in consequence, been directed by his government to proceed thither, in order to take all necessary steps for prevailing on his royal highness to remove the obstacles which, it would seem, prevent your compliance with the request of her majesty the Queen of England.

This minister having acquainted me with the purport of his mission, I have laid it before the grand duke, and his royal highness has commanded me, Sir, officially to inform you, that you were perfectly at liberty to act, on the present occasion, as you should think proper, and that, although his royal highness would never, nor in any manner, interfere in whatever might relate to the proceedings against the Queen of England, he, nevertheless, was ready to give you leave, on your making such a request, to proceed either to England, or to any other country which you might wish to visit.

The case in question being of extreme delicacy, I am directed by the grand duke to request you will return a written answer to the communication which I have the honour of addressing to you.

Accept, sir, the assurance of my most distinguished consideration.

(Signed) The Baron de Berstett,

Carlsruhe, Oct. 11, 1820.

To Baron d'Ende, one of his royal highness the Grand Duke of Baden's chamlains, &c. and master of the ceremonies.

Note *from Baron d'Ende to Baron de Berstett, dated Carlsruhe, Oct. 11th,* 1820.

Monsieur le Baron ;—I have just received the letter which your excellency has done me the honour to address to me, and by which you are so good as to inform me, "that one of the counsel for her majesty the Queen of England, has complained in the House of Lords, that, after receiving two letters which her majesty had deigned to address to me, requesting my evidence, I had refused to proceed to London, in consequence of a prohibition on the part of my sovereign ; that in consequence of this statement, Mr. Lamb, his Britannic majesty's minister plenipotentiary to the Germanic confederation, has been instructed to repair hither for the purpose of removing any obstacle which might arise to my departure ; and that his royal highness the grand duke, has instructed your excellency to declare to me, officially, that I am perfectly at liberty to follow my inclination, and that his royal highness, upon my request, will not refuse a leave of absence for proceeding to England."

I beg leave in the first place to be allowed to correct some mistakes which appear to have crept into the allegations of her majesty's counsel. I have only been honoured with one letter from her majesty, a letter which has been delivered to me by her agent, M. Leman, to which I have replied, that the nature of my duties rendered it impossible for me to come to England, in compliance with her majesty's wishes. With respect to the tears with which I am stated to have accompanied this refusal, I am the more astonished, as my declaration was conveyed to M. Leman through one of my friends, who undertook to communicate my determination to him upon this subject.

In consequence of the permission which your excellency has done me the honour to transmit to me in the name of his royal highness the grand duke, the difficulty grounded on the nature of my duties is overcome ; I am extremely grieved that it is, nevertheless, not in my power to conform to the wishes of her majesty the Queen. The state of my health is such that I could not undertake so long a journey without the greatest danger, particularly at this moment, when about to undergo a rigid course of medical treatment. Have the goodness, Sir, to explain these circumstances to Mr. Lamb, and to convey to him my regret at not being able to proceed to England.

I avail myself of this occasion to offer to your excellency the assurance of my highest consideration.

(Signed) The Baron d'Ende.

Carlsruhe, Oct. 11th, 1820.

HOUSE OF LORDS.

Monday, October 23.

The order of the day being read for the further consideration and second reading of the Bill, intituled "An Act "to deprive Her Majesty Caroline "Amelia Elizabeth of the Title, Pre- "rogatives, Rights, Privileges, and Ex- "emptions of Queen-Consort of this "Realm, and to dissolve the Marriage "between His Majesty and the said Caro- "line Amelia Elizabeth ;" and for hearing Counsel for and against the same :

The Earl of Harrowby brought up the following

REPORT OF THE SECRET COMMITTEE

Appointed to examine and verify Extracts from the Correspondence between Colonel Browne and J. A. Powell, esq. relative to the Mission of Giuseppe Restelli to Milan, and his detention there.

By the Lords Committees appointed a Secret Committee, with powers to examine John Allan Powell, esq. as to the extracts from such parts of his correspondence with Colonel Browne as relate to the causes of the Mission of Giuseppe Restelli to Milan, and of his detention there, and to verify them by a comparison with the original letters, and to report ; and to whom were referred certain papers (sealed up), delivered in at the bar of the House by John Allan Powell, esq. pursuant to the order of the 20th of October, 1820.

Ordered to report,

That the committee have met, and, in the discharge of the duty imposed upon them by the House, have called before them John Allan Powell, esq. who being examined, stated, that the extracts which he presented at the bar of the House contained the whole of what has passed in the correspondence between him and colonel Browne, respecting the causes of the mission of Giuseppe Restelli to Milan, on the 14th of September last, and of his detention there.

The committee then proceeded to examine and to verify these extracts; and upon comparing them with the parts exhibited to them of the drafts of Mr. Powell's letters to colonel Browne, and of the original letters of colonel Browne to Mr. Powell, find, that they have been made faithfully and correctly.

These extracts may be classed under two heads:—First, those containing the communications made by colonel Browne to Mr. Powell, and received by the latter before the 14th of September last, when Restelli was despatched to Milan:—Secondly, the extracts from the letters which have passed between colonel Browne and Mr. Powell at the time of Restelli's departure from this country, and subsequently thereto.

From the first of these it appears to the committee, that as early as the 4th of July, 1820, a letter was written by colonel Browne to Mr. Powell, and received, as the latter supposes, about the 12th of the same month, though he cannot now ascertain the precise date of its arrival, in which colonel Browne states the excessive alarm prevailing in Italy, in consequence of the dissemination of false reports respecting the maltreatment and even the murder of some of the witnesses then in England, and strongly urges the necessity of procuring letters from them to counteract such reports, and of sending them by a courier.

Communications of a similar nature, stating the mischievous effects of the reports in circulation, and of the use made of them to deter other witnesses from coming to England, appear to have been made by colonel Browne to Mr. Powell, on the 10th, 18th, and 24th of the same month, and also on the 4th of August, on which day he represents the alarm of the families of the witnesses then in England to have been greatly increased by the non-arrival of any letters, and expresses his hope that letters from them will be speedily received.

It also appears that on the 9th, 15th, 17th, 22nd, 25th, 28th, and 29th of August, and on the 2nd of September, similar representations were repeated in the letters of colonel Browne, and received by Mr. Powell prior to the 14th of September, the date of Restelli's mission to Milan, in several of which the necessity of sending a courier with letters from the witnesses is again strongly insisted on.

In these communications the strongest statements are made of the mischievous impression produced by the news of the attack upon Restelli's party at Dover, by the representation of the riot there as a massacre; by the report of the loss of an eye by Restelli himself, and of the murder of Sacchini; and by the return of Rossi and the Lugano witnesses, in consequence of these reports. The terror of the families of other witnesses, who were said to have lost their lives, is represented to have been extreme; and colonel Browne states all these circumstances as having deterred witnesses, by fears for their personal safety, from coming to England, "who were before ready and willing, and going off with all the expedition possible."

The committee have confined themselves to this general statement of the substance of the various representations thus made by colonel Browne to Mr. Powell of the reports circulated in Italy, and of their effect in deterring other witnesses from coming to this country, which Mr. Powell states as his inducements to select Restelli as the fittest courier to carry dispatches to Milan on the 14th of September, but have not thought it right to report the extracts themselves, as they contain statements which, in that form, could not be received as legal evidence of the circumstances to which they refer, but which, if produced, might affect the important inquiry in which the House is now engaged.

The same reason does not apply to the second head of extracts from the letters of Mr. Powell to colonel Browne, which were sent by Restelli, or written subsequently to his departure from England, and from colonel Browne's answers thereto. The committee have therefore thought it their duty, without comment or opinion, which they do not understand themselves to have been required to offer, to subjoin these extracts *in toto*, as they have been delivered to them, for the information of the House.

Extracts from the drafts of Letters from Mr. Powell to Colonel Browne.

No. 1.

"Lincoln's Inn, 13th September, 1820.

"I now return you Restelli, as I conceive he may be of use to you; but you must take care to let us have him here again on or before the 3rd of October, with all the information, evidence, and witnesses you possibly can collect."

Extracts from another part of the same letter, at an interval of several pages.

"I am aware that it may be a difficult task, under the circumstances which have taken place, to induce persons to trust themselves here; but we rely upon your utmost exertions to accomplish this important measure, and trust you may succeed."

No. 2.

"Lincoln's-inn, 14th September, 1820.

"I have little to add to my letter of yesterday, except to return you the papers to be proved, if possible, in the way that will be pointed out by ———, and some of which I have marked in pencil; they must all be returned to me, done or not done, by the 1st of October. Restelli takes back with him letters from every body; be sure to forward them, and get as many answers as you can."

No. 3.

"Lincoln's-inn, 28th September, 1820.

"I hope we shall in two or three days see Restelli again, with the papers I returned to you by him, and other witnesses, who may be a counterpoise to those to be called by them."

Extracts of Letters from Colonel Browne to Mr. Powell.

No. 4. (Received the 28th of September.)

"Milan, 21st September.

"Just as the courier was starting Restelli arrived. Every attention shall be paid to the letters brought by him."

No. 5. (Received 4th October.)

"Milan, 27th September, 1820.

"Restelli will take back with him and two new witnesses, referred to in letter. I much fear Restelli is shuffling. He is in bed, and says he has a fever from crossing the water, and he is heartily sick of the manner in which the witnesses are confined in England. I wish he had not been sent back at such a moment, as it will, I am sure, be difficult to move him again. I shall press him the moment he leaves his bed."

No. 6. (Mr. Powell believes, received the 7th of October.)

"1st October, 1820.

"Restelli is still in bed with a violent fever."

No. 7. (Received the 7th October.)

"2d October, 1820.

"——— and Restelli continue ill in their beds."

No. 8. (Received the 7th of October, as Mr. Powell believes.)

"2d October, 1820.

"Restelli is also on his pillow, and has been bled twice yesterday. He has a serious fever; and, as I hear, he attributes it to having vomited blood on the passage over the water. I expect very great difficulty in getting him back to London."

Extracts of Letters from Mr. Powell to Col. Browne.

No. 9.

"Lincoln's-inn, Oct. 3, 1820.

"We are exceedingly sorry to find that you have any doubt of the willingness of Restelli to return. He would most certainly not have been sent to you, had there been the least reason to suppose he would not most readily have come back, and had we not conceived that he might be of great use to you at Milan, as he himself stated he thought he could, and that he should be very well able to return here by the 3d. As it is, we consider it of the greatest moment that he should come back; and I have it expressly in command from the attorney-general to say to you, that no means must be left untried to make him do so. His absence would prejudice the cause exceedingly, as it would be immediately construed into a fear of his re-appearing, and the most injurious, however untrue, inferences would be drawn from it. The return of this man is so much desired, that we send Kraus expressly to you to inform you of it, and to enforce it in the strongest manner."

No. 10. (Received since the examination of Mr. Powell at the Bar of the House.)

"Milan, 4th October, 1820.

"I have not seen Restelli, except the day of his arrival and the day after; he continues in his bed seriously ill. It would appear to be a severe attack of the jaundice; I shall urge him out of his bed, as soon as possible, and endeavour to persuade him to return, but he cannot for three weeks to come; and his horror of the sea is such, that it will be a tremendous task to induce him to cross it again.

"On ———'s suggestion O——— is to visit Restelli, see him in his bed, and in the presence of his doctor, who will sign a certificate in O———'s presence of the danger which would attend his removal."

Counsel were then called in.

Mr. Brougham requested that Louisa Demont might be called in.

Mr. Solicitor General stated, that in consequence of a communication of the wish of the counsel for her majesty, Louisa Demont, who was at her lodgings in London, had been sent for, but that he had been informed that Mr. Vizard had mentioned to Mr. Maule, that he should not want her before twelve o'clock, and that Mr. Maule had gone away with that impression.

Mr. *Brougham* begged to tender that which he could not in an ordinary trial do, being aware that it would be defective in that proceeding; but he hoped their lordships in regard of the particular nature of the inquiry in which they were now engaged, and more especially with relation to the charge contained in the preamble of the bill against her majesty, would be pleased to receive it in evidence: that it being alleged in the preamble of

the bill, "That her majesty conducted herself, not only with indecent and offensive familiarity and freedom, and carried on a licentious, disgraceful, and adulterous intercourse during her majesty's residence abroad, but that by that conduct of her royal highness great scandal and dishonour had been brought, during the whole of the period to which the preceding statement referred, upon his majesty's family and this kingdom; and that it was to manifest a deep sense of such scandalous, disgraceful, and vicious conduct on the part of her majesty, by which she had rendered herself unworthy of the exalted rank and station of Queen Consort, and to evince a just regard for the dignity of the Crown and the honour of the nation," he tendered the evidence which he held in his hand, to rebut that allegation, and to show, that the general estimation in foreign nations of her royal highness was such, after they had witnessed her conduct, as to be utterly inconsistent with the statement in the bill; that the paper he tendered was the Austrian Gazette, published at Trieste at the time her royal highness was there, which stated her to have arrived at mid-day, on a certain day, and to have left Trieste on the following day, with all demonstrations of respect befitting a person of her station;* that he tendered this, not as conclusive evidence, but as *primâ facie* evidence of that which was inconsistent with the allegations of the bill.

Mr. Attorney General said, it was impossible that the papers in question could be received in evidence; and he had to complain of his learned friend for making the statement he had done, because he knew very well that the evidence he proposed was inadmissible. In proof of this he had only to call to their lordships' recollection what his learned friend had himself acknowledged, he having begun by stating that the evidence he had to offer to their lordships was such as in ordinary cases could not be received. Would it have been competent to him in his case to have produced such evidence? Certainly not. Then, if he could not be permitted to bring forward proof of this kind, why should such an advantage be conceded to his learned friend? He therefore humbly contended, that these papers could not be received as evidence by their lordships.

Mr. Solicitor General contended, that these papers had not been offered for the ostensible purpose of showing how the princess of Wales had been received at Trieste, but for the purpose of affording his learned friend an opportunity of making the statement he had done respecting the time of her royal highness's arrival and departure from Trieste. That, he was satisfied, was the only reason his learned friend had for offering those two newspapers to the consideration of their lordships. What effect this attempt might have on their lordships' minds it was not for him to decide; but it was, impossible not to see, that the sole object aimed at in producing these papers was to make, collaterally, an impression which his learned friend could not make directly. It was admitted, even by his learned friend, that the evidence could not be received in the courts below, and he was confident that their lordships would reject it.

Mr. *Brougham* said, he had stated that he did not think these papers evidence which could be received in a court of justice; but he thought they might go for something in a proceeding out of such a court. He was not here as in a court of justice. In a court of justice, he could have objected to the members of a grand jury afterwards becoming part of the jury to try the case — in a court of justice, he would have had his right of challenge against the jurors—in a court of justice, he would have been allowed to prove declarations made by jurors in hostility to his client—in a court of justice, he might

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* The following are the Extracts from the Trieste Observer, of April, 1817:—

"*Trieste* 16*th April.*

"The princess of Wales, the wife of his royal highness the prince regent of England, in passing the Higher Germany, arrived in this city yesterday about mid-day.

"In the evening, our new grand theatre, where the exalted princess went to the grand spectacle of a new opera, was, in honour of her royal highness, speedily illuminated."

In a subsequent number of the same paper, dated the 19th of the same month, is the following article:—

"Her royal highness the princess of Wales left this city the 16th of this month, at five o'clock in the evening, for her delightful country residence on the lake of Como."

have objected to the prosecutors of his client sitting as judges and jury. But the privileges which he would have had, and all the objections which would have been open to him in a court of justice, were denied to him here. If, then, he was to be confined to strictly legal evidence, let his adversaries conduct their case according to the practice of courts of justice. He wished for nothing more than to be regulated by the practice of the courts below, if that regulation were fairly applied to both sides. But, to make this a completely legal proceeding, their lordships must give him a jury fairly chosen, and all the rights he would have had before a jury. This proceeding had been said to be anomalous; but the first anomaly was, that those who were the accusers sat as the judges of his client. That anomaly produced another, in the offer of those papers as evidence. When so much anomaly was admitted against, he might surely claim some in favour of, his illustrious client.

The *Lord Chancellor* said, that it was the opinion of the House the paper tendered could not be given in evidence.

Then Lieutenant *Joseph Robert Hownam* was again called in, and farther examined as follows, by the Attorney General.

Have you got the Diploma of the Order of St. Caroline? I have.

Is that under the seal of the Order? It is.

The same was translated by the Marchese di Spineto, Mr. Cohen concurring in the same, and then the Diploma was delivered in.

Diploma creating Lieutenant Joseph Hownam, R. N., a Knight of the Order of St. Caroline of Jerusalem.

Gerusalemme, li 12 Luglio 1816.

CON la presente sottoscritta di propria mano di S. R. A. la Principessa di Galles, portante il di lei Sigillo, S. R. A. instituisce e crea un nuovo ordine per ricompensare i fedeli *Cavaglieri che hanno avuto l'onore di accompagnarla nel di lei pellegrinaggio a Terra Santa.

1. Quest' ordine sarà unicamente dato, e portato da quelli che hanno accompagnato S. R. A. a Gerusalemme, ad' eccezione del di lei Medico Professore Mochetti che per un semplice accidente non poté seguirla.

2. Il Sig^{r} Colonello Bartolomeo Pergami, Barone della Franchina, *Cavagliere di Malta, e del S. S. Sepolcro a Gerusalemme, Scudiere di S. A. R. sarà il Gran Maestro di quest' Ordine: i di lui figli si Maschi che Femine potranno succederli, ed' auranno l'onore di portare questo medesimo Ordine di discendenza in discendenza fino all' infinito.

3. Viene concesso questo medesimo vantaggio al Sig^{r} *Cavaglieri del S. S. Sepolcro Guglielmo Austin ed' i di lui figli legitimi pur fino all' infinito godranno di quest' Onore.

4. Solamente personale sara quest' Onore per lei, Sig^{r} Giuseppe Hownam, Capitano della Real Marina Inglese, e *Cavagliere al seguito di S. R. A. creato uno dei *Cavaglieri di quest' Ordine con la presente, ed alla di lei morte la Croce e la patente saranno rimesse al Gran Maestro.

5. La Croce sara portata dal Gran Maestro al Collo, e gli altri Sig^{ri} *Cavaglieri saranno tenuti portarta alla bottoniera sinistra del loro abito.

6. Consiste sud^{o} Ordine in una Croce rossa portante il Motto, "Honni soit qui mal y pense," e si chiamerà col nome di Santa Ca-

Jerusalem, 12th July 1816.

BY this Present, subscribed by the own Hand of Her Royal Highness the Princess of Wales, and bearing her Seal, Her Royal Highness, institutes and creates a new Order, to recompense the faithful Knights who have had the Honor of accompanying her on her Pilgrimage to the Holy Land.

First, This Order shall be given, and worn only by those who have accompanied Her Royal Highness to Jerusalem, except her Physician, Professor Mochetti, who by a simple accident could not follow her.

Second, The Colonel Bartholomew Pergami, Baron of Francina, Knight of Malta, and of the Holy Sepulchre of Jerusalem, Equerry of Her Royal Highness, shall be the Grand Master of this Order, and his Children, Males as well as females, shall succeed him, and shall have the Honor to wear this same Order from Generation to Generation for ever.

Third, This same Advantage is granted to the Knight of the Holy Sepulchre, Mr. William Austin, and also his legitimate Children, shall enjoy this Honor for ever.

Fourth, This Honor shall be personal for you Mr. Joseph Hownam, Captain of the British Navy, Knight in the Suite of Her Royal Highness, created one of the Knights of this Order by this Present, and at your Death the Cross and the Patent shall be returned to the Grand Master.

Fifth, The Grand Master shall wear the Cross round his Neck, and the other Knights shall be obliged to wear it at the Button Hole of the Left Hand Side of their Coats.

Sixth, The above-mentioned Order consists of a Red Cross, with the Motto "Honi soit qui mal y pense;" and shall be called by

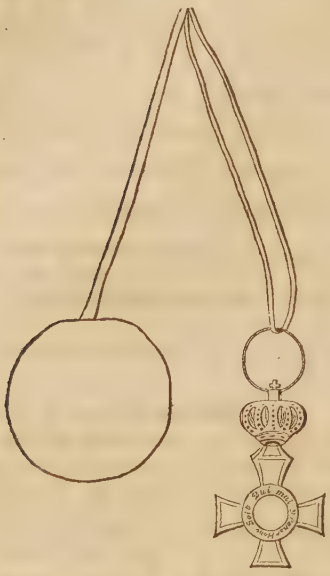
* Sic in Orig.

rolina a Gerusalemme. Il nastro sara Lilla ed' Argento.

CAROLINE, Principessa di Galles.
Co^lo PERGAMI,
Ba^ne della Francina, Ca^re di Malta, e del S. S. Sepolcro, Gran Maestro.

the Name of "St. Caroline of Jerusalem." The Ribbon shall be Lilac and Silver.

(Signed) CAROLINE Princess of Wales.
Colonel PERGAMI,
Baron of Francina, Knight of Malta, and of the Holy Sepulchre, Grand Master.



N. B.—The Seal affixed to the Diploma is stated in the Diploma itself to be the Seal of Her Majesty; but it appears to be so defaced, that it is difficult for an Engraving to be made of it.

Per il Sig^r, *Cavagliere Giuseppe Hownam, *Cavagliere al seguito di S. R. A. &c.

(Addressed)
To the Knight Joseph Hownam, a Knight in the Suite of Her Royal Highness, &c.

Mr. *Denman* stated, in reference to a farther examination of Louisa Demont, that he had to request the indulgence of the House to agree to the application he was about to make in that respect; that he had no idea of calling the witness, to prove any substantive fact on the part of her majesty, but to ask her to certain facts, with a view, if she admitted them, to have the benefit of them, and if not, to call evidence to contradict her.

The Counsel were informed, that this should regularly have been stated some time ago; but that the House had permitted a witness to be recalled under such circumstances, and would allow of this Witness being now called with the view proposed.

Then *Louisa Demont* was again called in. and farther examined by the Lords, through the interpretation of Mr. Pinario, the questions being suggested by Mr. Williams:

Are you acquainted with a woman of the name of Fanchette Martigner? I believe not.

Do you know a man of the name of Henry Martigner? I do not recollect any such name.

Do you know a place in Switzerland called Morje? Yes.

The woman to whom the question refers is a milliner at that place? I know a person, a marchande-de-modes, of the name of Martigni, not Martigner.

Do you remember seeing that woman in April 1818? I have seen her several times, but I do not remember in what month.

In the year 1818? I do not recollect; but I may have seen her in the course of that year.

Do you remember sending for that woman to alter a bonnet for you? I cannot recollect my sending for her, because I did not reside at Morje.

Did you see her upon the subject of a bonnet in any part of the year 1818? I may have seen her, but I do not positively recollect whether I did or not.

Do you know the woman of whom you are reminded? I know this woman, madame Martigni.

Had not you some conversation with her in the year 1818 about the princess of Wales? As I do not recollect seeing her in the course of that year, I do not recollect having any conversation with her.

Did you not see this woman after you had left the princess's service? Yes, I saw her afterwards.

Had you not then some conversation respecting the princess of Wales? I do not

* Sic in Orig.

recollect whether I had any conversation with her; it may be, but I do not recollect.

Do you not remember this woman, Martigni, speaking on the subject of your Journal? I do not at all recollect her speaking to me on the subject of my Journal.

Do you mean to say, that you did not hold a conversation with this woman, Martigni on the subject of your Journal? I may have had a conversation with her, but I do not recollect; it may be.

Do you not remember this woman speaking with you as to the conduct of the princess of Wales? I do not recollect.

Do you not recollect saying any thing about the persons that surrounded the princess of Wales? I do not recollect; I have often spoken about the princess, but not about persons who surrounded her, who were of her suite.

Did not this woman, Martigni, ask a question of you respecting the character of the princess of Wales? I do not recollect having had a conversation with her on that subject; it may be, but I do not at all recollect.

Do you remember being at Morje? Yes, I have been at Morje several times.

Do you not remember this woman, Martigni, putting this question, "Whether the princess of Wales was not a woman of intrigue, a femme gallante?" I do not at all recollect; I do not recollect having had any conversation with this woman upon the subject of the princess.

Do you mean to say, that you had not this conversation, and that the woman Martigni did not put the question now asked? I do not at all recollect.

Will you say, that it did not pass, that the question was not put to you? I do not at all recollect whether this question was put to me; I have not the least idea of it.

Do you remember at that time becoming angry on the subject of the princess's conduct being mentioned? I do not recollect; I do not remember this conversation; I have not the least idea of it.

Do you remember your saying at that time, to this woman Martigni, that it was all a calumny, and that it was her (the princess's) enemies that spread such rumours? I do not recollect any thing like that; I do not recollect it at all.

Will you swear that you did not say so? I will not swear it, but I have not the least idea of it; before I was put upon my oath I never said any thing of what passed in the house of her royal highness.

If that be so, do you mean now to represent that you did not use the language just put to you, or to that effect? I have not the least idea of such a conversation; I do not recollect it at all.

Will you swear you did not say so? I will not swear it, because I do not recollect it at all; I have not the least idea of it.

Did you not say to this madame Martigni, that from the time the princess left England she was surrounded by spies? I never could have said so, because I myself never saw any spies.

Will you then swear, that you did not say that which was just put to you? I will not swear it, but I do not recollect having ever said it.

Did you not say just now you could not have said it, because you never saw or knew any thing of spies? I do not remember ever saying so at all; I do not recollect having this conversation, I have no idea of it.

You were understood to say this moment you could not have said it, because you knew nothing of spies? I do not believe I ever said so at all.

Will you swear you did not say so? I will not swear it, but I do not think I ever said it.

Did you not say in addition, to this same woman, that the princess was very unfortunate? I do not recollect this conversation at all.

That the most simple actions of her life were always misinterpreted? I do not recollect ever saying so; I do not remember this conversation at all.

Will you swear that this conversation, or any part of it, passed in the year 1818? I cannot swear, but I cannot recollect; I do not recollect any thing of it, I have no idea of it.

Do you remember being at madame Jaquereau, on a visit at Morje? Yes.

When was that? I have been there several times.

The question refers to the year 1818? I have been several times there after quitting the service of the princess, but I do not recollect at what periods.

Were not you there, upon a visit to the person just mentioned to you, in the year 1818? Yes, I was there in the year 1818.

And in that year 1818, when you were on a visit, had you not a bonnet altered or repaired by madame Martigni? It may be, but I do not positively recollect it.

Have you no memory about your bonnet being repaired or altered by this woman? I have had several bonnets altered by madame Martigni.

Did you not tell madame Martigni that you had always been about the person of the princess? I do not at all recollect this conversation.

Will you swear that madame Martigni did not remark to you, that as you had always been about the person of the princess, you must have observed all her actions? I do not recollect this conversation; it may be, but I have not the least idea of it.

The *Lord Chancellor* said, that as the evidence was entered in the Minutes as being put by their lordships, it would be for their consideration whether it would be for their

credit that the same question should be put fifty times [Hear !].

Did not madame Martigni inquire particularly of you, whether you had seen any thing unchaste in the conduct of the princess? I do not recollect at all having had this conversation; I have not the least idea of it.

Will you swear it did not take place in those very words, or to that effect? I cannot swear it, I do not recollect it at all.

Will you swear that you did not reply to this effect, "My God! never in my life; it is impossible for any body to be more virtuous than the princess of Wales?" I do not recollect; I cannot recollect having any conversation on the subject with madame Martigni.

Will you swear you had not any conversation to that effect with madame Martigni? I cannot swear it, but I have not the least recollection of it, I have not the least idea of it.

Do you believe you have used those expressions, or expressions to that effect, in answer to a question put by madame Martigni? I do not recollect such a question; but if the question took place, I do not believe I made such an answer.

Did you not say to madame Martigni, that in all her persecutions, she, the princess, had no friend but the old king? I have not the least idea, whatever, of this conversation, I do not recollect it.

Will you swear you did not say so? I will not swear it, but I do not believe that I ever said so.

Were not you at Morje in the month of November in the year 1818? I have been several times at Morje; I may have been there in that month.

Have you any recollection one way or the other, whether you were or were not there in that month of November? I may have been there in that month; but I do not exactly recollect; I was there either at the end of November, or perhaps the beginning of December.

Did not madame Martigni ask you whether the princess was not much afflicted at the loss of the princess Charlotte? I do not remember such a conversation; I have not the least idea of it, I assure you, not the least idea.

Will you swear that madame Martigni did not put that question to you? I cannot positively swear it, but I have not the least idea.

Did not you say "Yes, it was very natural, as she had lost every thing in losing her child?" I have not the least idea of such a conversation, I do not recollect it in the least.

Do you believe that such a conversation took place with madame Martigni? I do not believe that such a conversation took place.

Did not you say to madame Martigni, that it was possible after the the death of the princess Charlotte, that the princess of Wales would make some diminution in the expense of her household? I have not the least idea of such a conversation; I assure you I do not recollect it at all; I have not the least idea of it.

Will you swear it did not take place? I would not positively swear it, but I have not the least idea of it.

When was it you first made any deposition upon your oath, on the subject of your evidence?

The *Lord Chancellor*.—Has she said any thing in the course of her examination about her being sworn?

Mr. *Williams*.—Oh! yes, my lord, doubtless.

Mr. Brougham submitted this question might be put independently of the object of this examination.

The *Lord Chancellor*.—You said to-day that you were calling the witness to speak to her deposition; either, I suppose, with a view to her general evidence, so as to affect it in some way or other, or to disprove particular assertions. If it be for any other object, I must confess I do not see the necessity of going into fresh matter in this stage of the proceeding. If your object be, to open such a case, however (and I do not say that you may not do so), explain to their lordships the manner in which you propose to do it; and first of all, as the ground of this question, satisfy the House that the witness has spoken of her being before sworn.

Mr. *Williams*.—In her evidence, my lord she uses the very terms; she says she has been sworn.

The *Lord Chancellor* directed that part of her former evidence to be read. It was as follows:

The following extract from the former Evidence was read over to the witness.

"Do you remember your saying at that time to this woman Martigni, that it was all a calumny, and that it was her (the princess's) enemies that spread such rumours; I do not recollect any thing like it; I do not recollect it at all.

"Will you swear that you did not say so? I will not swear it, but I have not the least idea of it; before I was put upon my oath, I never said any thing of what passed in the house of her royal highness.

What did you mean by those words "before I was put upon my oath?" I mean before I was examined and put upon my oath here.

The following questions were put at the request of Mr. Solicitor General:

Before you were examined here, had you been examined any where else? I was examined at Milan.

Had you ever said any thing about her royal highness before you were examined at this

place here? Was it after having been examined at Milan or before.

At any time before you were sworn here, had you ever said any thing about her royal highness? I had spoken often of her royal highness before I was examined at Milan.

What did you mean by saying that before you were put upon your oath you had never said any thing as to what passed in the house of her royal highness? The meaning is, that I never said any thing of her conduct with baron Pergami, with Monsieur Pergami.

Do you mean that before you were sworn in this place where you now are, you never, upon any occasion, said any thing elsewhere as to the conduct of her royal highness with baron Pergami? I made my depositions at Milan.

Mr. Solicitor-general requested leave to examine this witness as to the particulars of the journey from Rome to Sinigaglia.

The Counsel were informed, that that could not be now done, whatever might be done when the witnesses for the defence had all been called.

Earl of *Lauderdale*.—Do you recollect the day of the month on which you left the service of her royal highness at Pesaro? It was in the beginning of November, but I do not recollect the day.

Can you state how many days it was antecedent to your writing the letter from Rimini? I wrote that letter the same day in the evening on my arrival at Rimini.

Antecedent to your leaving the princess of Wales at Pesaro, had accounts come, of the death of the princess Charlotte of Wales? No.

Mr. *Brougham* said, he had to offer a few words to their lordships previously to the introduction of another witness. Would their lordships allow another witness to be called, and order that Demont should remain at the bar during the examination of that individual?

The *Lord Chancellor* said, this was so unusual, that Mr. Brougham must first inform the House for what purpose he asked the indulgence.

Mr. *Brougham*.—It may be very likely, my lords, that when Demont sees the next witness, she may give a different sort of answer to the questions which have been put to her.

Mr. Solicitor General apprehended that his learned friend was by no means entitled to ask this of the House. It was the counsel for the bill who were entitled to demand that a witness on the other side should be confronted by one of their's; but his learned friend was not authorized to expect this concession, unless he was entitled to ask every thing which was unusual.

Mr. *Brougham* observed, that it would be something extraordinary, if, in so unusual a case, he applied for usual concessions only. He was willing, however, to wave his request.

The Witness was directed to withdraw.

Then *Fanchette Martigner* was called in, and having been sworn, was examined by Mr. Williams as follows, through the interpretation of Mr. Pinario:

Are you the wife of Henry Martigner? Yes.

Of what place? Of Morje.

Do you keep a milliner's shop there? Yes.

Do you know Louisa Demont? Yes.

How long have you known her? From the time she was at Morje, when she was quite young, and was learning to work.

Was that before she went into the service of the princess of Wales? A long time before that.

According to the best of your judgment, how old was Demont at the time when you first became acquainted with her? When I knew her the first time, she might be about sixteen.

Have you frequently seen Demont at Morje? From the moment I became acquainted with her, I saw her very often.

Do you remember seeing Demont at Morje at any time in the year 1818? I saw her in the month of April.

On what occasion did you see Louisa Demont? At the country house of the demoiselles Jaquereau, whither I was called on account of some work.

Work to be done for whom? For mademoiselle Demont.

Before that time, had you seen any journal of Louisa Demont? I had read it.

When you saw Demont on the subject of some work, did you enter into any conversation with her, Demont, upon the subject of that journal, or of the princess? Yes.

Do you remember asking her any question respecting the princess of Wales and her conduct? The first time I spoke to her about her voyage, because I had seen her journal.

The question refers to the time when you had the work to do for Demont? I understand so.

Did you ask Demont any question respecting the conduct of the princess of Wales, or respecting the princess of Wales generally? Yes.

What was the question which you put to Demont?

Mr. Attorney General put it to their lordships, whether, if the object of calling this witness was to affect the credit of Demont,

these questions were likely at all to produce that effect?

The Witness was directed to withdraw.

The Counsel were informed, that if they thought the evidence objectionable, they were at liberty to state their objections; that there were two questions, first, whether it presented a contradiction? and secondly, whether it went to the general credit of Demont? that it appeared to be evidence, as affecting the general credit of Demont.

Mr. *Brougham* stated, that he did not offer it as affecting the credit of Demont generally, but in contradiction of her testimony, that she had not said any thing as to what passed in the house of her royal highness until she was put upon her oath.

The following extracts were read from the Evidence:

"Do you remember your saying at that time to this woman, Martigni, that it was all a calumny, and that it was her (the princess's) enemies that spread such rumours? I do not recollect any thing like it, I do not recollect it at all.

"Will you swear that you did not say so? I will not swear it, but I have not the least idea of it; before I was put upon my oath, I never said any thing of what passed in the house of her royal highness.

"What did you mean by those words, 'before I was put upon my oath?' I mean before I was examined and put upon my oath here."

The following questions were put at the request of Mr. Solicitor General:

"Before you were examined here, had you been examined any where else? I was examined at Milan.

"Had you ever said any thing about her royal highness before you were examined at this place here? Was it after having been examined at Milan, or before?

At any time before you were sworn here, had you ever said any thing about her royal highness? I had spoken often of her royal highness before I was examined at Milan.

"What did you mean by saying, that before you were put upon your oath, you had never said any thing as to what passed in the house of her royal highness? The meaning is, that I never said any thing of her conduct with baron Pergami, with monsieur Pergami.

"Do you mean that before you were sworn in this place, where you now are, you never upon any occasion said any thing any where as to the conduct of her royal highness with baron Pergami? I made my depositions at Milan."

The *Solicitor General* observed, that this answer referred solely to the conduct of the princess towards Pergami.

Mr. *Williams* said, that from what the preamble of the bill stated, from what every witness stated, it appeared that the object was, to impute to the Queen an improper connexion with Pergami; and as that imputation rested so much upon the testimony of Demont, it was most material that the evidence which was now tendered in contradiction to that testimony, should be received by their lordships.

The Counsel were directed to withdraw.

Lord *Erskine* contended, that it was a proper question, for the purpose of leading to a contradiction of Demont. The objection of the counsel for the bill appeared to him to confound the distinction between the admissibility and the effect of the evidence now offered. He conceived that, at all events, it was clearly admissible, though its effect would be for the after-consideration of their lordships.

The Earl of *Lauderdale* objected to this line of examination being pursued. His noble friend had not, seemingly, attended to the arguments of the learned counsel at the bar.

Lord *Erskine* retorted, that he had attended both to the arguments of the learned counsel and those of the noble lord on the woolsack, in which latter he completely concurred. He was astonished at the assertion of his noble friend.

The *Lord Chancellor* said, their lordships were not at present called upon to decide upon the justice of his noble and learned friend, but to pronounce as to the admissibility of the evidence now proposed by the Queen's counsel. His lordship said—I may be mistaken, but I consider it evidence brought to affect the general credit of Demont, and therefore admissible. It is, indeed, the more necessary to receive such evidence, when the general character, and particularly the occasional forgetfulness and *double entendres* of the witness whom it is sought to discredit, is brought into question.

The question was proposed; and the witness said,

I observed to mademoiselle Demont that the princess of Wales was a *femme libertine et galante*: and I said so frankly, for such was my opinion.

What answer did Demont make to your observation? She put herself in a great passion, and said it was nothing but calumnies invented by her enemies in order to ruin her.

Did Demont say any more? She said

every thing that was good of the princess; that she had never observed any thing about the princess, or of the princess, but what was good.

Do you remember Demont saying any thing about spies? She told me that ever since the princess had quitted England, she had always been surrounded with spies; and she said something more, that every action that she did, even the simplest actions, and with the best intention, were misinterpreted; that the princess knew very well that she was surrounded by spies, but that she did no action but what she was willing that all the world should know.

Do you remember observing to Demont, that as she, Demont, had always been about the person of the princess, she must have observed all her actions.

Mr. Solicitor General objected to the form of the question. The learned counsel was actually putting the answer into the mouth of his witness.

The Counsel were informed, that the question was in too leading a form; that they might ask the witness whether she remembered having said any thing to her about her having been about the person of the princess.

Do you remember yourself saying any thing to Demont about Demont being about the person of the princess? I only recollect what I have said.

Do you remember inquiring of Demont any thing about the chastity of the princess? Yes, I asked her whether she had observed any thing of the princess.

What did she answer? She answered, No, that she had never observed any thing; and further observed, "it is impossible to be more virtuous than my princess."

Do you remember any thing being said by Demont about the late king, about the old king? She said, in the conversation, that the old king was the only support that the princess had.

You have stated that you had, on several occasions, seen Demont; did you know her well, and did Demont know you well? Yes.

Do you remember seeing Demont again in the course of the year 1818? Yes.

About what time in the year 1818? In the month of November.

Cross-examined by *Mr. Solicitor General.*

What is it that leads you particularly to remember that this conversation took place in the year 1818? Because I saw her depositions in the public papers, and then I openly showed, or manifested, or expressed my indignation, that she could have said what she had said to me and afterwards have made such depositions.

Will you have the goodness to answer the question, which was, "What leads you to remember that this took place in the year 1818?" Because she employed me in altering a hat or bonnet, and she took it back from me on the 22nd of April 1818, as it appears by entries in my day-book.

Was that the year in which your husband fell into embarrassed circumstances?

Mr. Williams objected to the question, as assuming a fact not proved.

Did your husband in that year, and if in that year, in what part of that year fall into embarrassed circumstances? My husband never was in embarrassed circumstances.

Do you mean to swear that your husband was never a bankrupt? My God! yes; neither he nor I.

How far is it from Morje to Colombier, where you live? About a short league.

How many times in the course of the year might you have seen Demont? I saw her several times, but only spoke to her twice.

How many times did you see her in the year 1817? I did not see her at all.

How long was it before the month of April 1818 that you had seen her? I did not see her before; I knew she was in the country, or in the neighbourhood, but that was the first time I saw her.

Did you ever see her upon any occasion before the month of April 1818? I had seen her before she entered into the service of the princess; but after her quitting the service for the first time I saw her in the month of April 1818, eight days before I did that work about her hat.

When was it that you saw her before she went into the service of her royal highness? I have seen her several times at Morje; she came to my shop, to my warehouse, to buy different things.

Did the acquaintance you had with her arise from the circumstance of her coming to your shop in the manner you have described to buy those different articles? Yes.

Can you remember when was the first time of her life, or about the first time, that she came to make some purchases? When she was at Morje, when she was learning to do needle-work at mademoiselle Redar.

How long is that ago? Miss Demont might then be about fifteen or sixteen, as I have already said.

As the age of mademoiselle Demont now is not known, answer the question; how long was it, to the best of your recollection? I do not know her age; she was then quite young, and was learning to work.

About how many years ago is it since that happened? I cannot recollect the precise time, it was when mademoiselle Demont was quite young, and she was learning to make hats, and to do other work.

Was it as much as five, or six, or ten years ago? I cannot positively tell, I only know that she was then quite young, that she was at Morje to learn to work; they might write to Morje to know.

Do you mean to swear you cannot tell

whether it was five or ten years ago? Yes, I cannot swear it, because I do not know.

Can you state whether it is three years or ten? I cannot say, I do not know, I swear I know nothing about it; this mademoiselle Redar might be written to, and will give the information.

Do you mean upon the oath you have taken, to swear you do not know whether it is three or ten years ago? Yes, I can swear it, because I cannot swear what I do not know, what I do not recollect.

Who was present, besides yourself and Demont, at the time this conversation you have spoken of took place? The demoiselles Jaquereau, the two sisters.

Where are the demoiselles Jaquereau now? One of them is at Nismes, and the other is at her country-house at Morje.

Did this conversation take place in the house of mademoiselle Jaquereau, or in your own shop? At the house of demoiselles Jaquereau.

Was mademoiselle Demont living there at that time? She was there upon a visit.

Having stated, that mademoiselle Jaquereau was there at the time, do you mean to state that the conversation took place under such circumstances, that mademoiselle Jaquereau must have heard it? They heard almost the whole of it, they were coming in and going out of the room alternately, yet they can recollect the greatest part of that conversation; but there are several particulars of that conversation which they will recollect, and even they found fault with my making that observation to mademoiselle Demont.

When were you examined first as to what passed in that conversation? Do you mean examined by those gentlemen who came to Switzerland; it is about two weeks ago, a fortnight ago.

Who were those gentlemen? They are English names; one of them is Mr. Garston, and the other, I believe, is Johnson; I cannot well recollect, because they are English names.

Was it taken down in writing? Yes.

Did they leave a copy of it with you? No.

Did you keep a copy yourself? No.

Had you put it down in writing before they came? No, I had not even an idea of it.

Who came over with you to this country? Mr. Barry.

Did any body else come with you, or did you come alone with Mr. Barry? I came accompanied by my husband; I would not travel along the public roads without him.

What agreement have you or your husband made for compensation or reward for coming here? My husband has had nothing to do with that; these gentlemen told me that we should be indemnified in a just and fair manner by the government of this country.

Has no sum been mentioned? As I did not know these gentlemen, I would not trust to their word, because two years ago an Englishmen, called Addison, occasioned me a loss of fifty louis; on this account they have deposited the sum of 100*l.* at a banker's called Messrs. Moret, as a security for their promise, and they have a receipt for that sum.

Is that 100*l.* which is deposited as a security for their promise, to be paid to you? This sum cannot be paid to me without an order from those gentlemen, because the sum has only been placed there as a security for their promise.

Is the promise they have made to you, a promise that you shall receive 100*l.*? No, what government will grant as just and fair; it is a guarantee of that promise, because they said it was not their intention to buy witnesses.

Do you mean to swear, that since you came to this country, or since you were first spoke to, no promise has been made to you or to your husband by any body? By nobody, I swear it, I tell the exact truth.

Have you received any thing? I have received 70*l.* sterling on account, for which I gave a receipt, because there is a suit depending there which will be decided against me, or may be decided against me, if I am not there on the 24th of the next month; not knowing how long I should have to remain in London, I would not leave my affairs without something to depend upon, and I have only received that as on account.

Besides that, have your expenses been paid, or did you pay your own expenses upon the journey? Those gentlemen paid the expenses of the journey.

Did you travel post? Yes, because it is this day eight days that we left Geneva, at four o'clock in the afternoon.

How much besides the 70*l.* do you expect to receive as a compensation for coming here as a witness? As my whole dependance is on what this government will think just or proper to do, I cannot say that I expect any fixed sum myself; and my husband left our affairs there in the care of strangers, and the person whom I placed there in my room, and three young women in my shop to attend to it.

You have no expectation of any precise sum? No promise has been made to me; they have said nothing to me about it.

Where do you live here now? We arrived here late yesterday, at midnight; we have been placed somewhere, I do not know where; and here I am to-day in the morning.

Re-examined by Mr. *Williams*.

You have been asked about the time when you saw Demont at Morje, was it before she went into the service of the princess of Wales? Yes, I had seen her several times, as I have told you; she came to my shop.

How soon after that conversation you had at mademoiselle Jaquereau, upon the subject of the princess, did you hear of Demont

having made a deposition against her? You know it better, gentlemen, than myself; it was on the 22nd of April my conversation with her took place, eight days before I sent to her the work I had had to do for her.

Have you ever had any conversation with either of the mademoiselles Jaquereau upon the subject of this conversation with Demont?

Mr. Solicitor General objected to the question.

Mr. Williams was heard in support of the question, but stated, that he did not wish to persist in it, the opinion of the House appearing to be against it.

Examined by the *Lords*.

Earl of *Darlington*.—Do you know whether mademoiselle Demont is acquainted with your husband? No, not at all.

Earl of *Harrowby*.—In your conversation with mademoiselle Demont, did you ask her any questions respecting the manner in which the princess was affected by the death of her daughter the princess Charlotte? Yes.

What answer did mademoiselle Demont give to that question? She told me, that the princess was extremely afflicted, that she had lost all she had that was most dear to her.

A Peer.—From your knowledge of Demont, was she a person to whose word you would trust?

Mr Solicitor General requested leave to submit an objection to the question.

The Question was withdrawn.

Earl of *Lauderdale*.—Did you recollect from Demont's conversation, that she was with the princess of Wales at the time she received the news of the princess Charlotte's death? I believed that; but I did not ask her about it; I asked her if she would return to the princess, and she answered yes; she told me, that she was on leave of absence, because the suite of the princess were in mourning.

Did she represent herself as being present at the time that the princess received the news of the princess Charlotte's death? No, she did not say so to me.

The Witness was directed to withdraw.

Mr. *Brougham*, after referring to what he had stated on Saturday as to the difficulties imposed upon her majesty's counsel, which, however, he did not impute to the conduct of government, they having done as much as was in their power to remove them, though without effect, reminded their lordships, that such difficulties had been experienced with regard to the bringing over of witnesses in support of the defence. Their lordships' process did not run abroad, unfortunately for them, however effectual it might have proved for their adversaries. A correspondence arising upon one of those difficulties had been laid upon the table of the House, and, with their lordships' permission, he wished to put a few questions to one of the witnesses, Mr. Leman, merely for the purpose of clearing up a slight discrepancy, which might possibly appear on the face of his evidence.

Then *James Leman* was again called in, and further examined by Mr. Tindal, as follows:

Were you dispatched at any time to Carlsruhe? I was.

Mr. Solicitor General observed, that the Witness had been in the House during the whole of the proceedings.

Mr. Brougham stated, that he was the clerk of Mr. Vizard, the solicitor for her majesty.

Mr. Tindal was directed to proceed in his examination.

When did you arrive in Carlsruhe? Between the 13th and 14th, in the middle of the night.

The 14th of what? Of September.

Did you inquire there for the baron d'Ende? I did, on the morning of the 14th of September.

Was the baron d'Ende then at Carlsruhe? I was informed at his house that he was then at Baden.

Were you informed when he was expected back at Carlsruhe? They told me he would return to Carlsruhe on Sunday the 17th.

Did you afterwards set out from Carlsruhe to Baden for the purpose of finding him there? I called at the baron's house at Carlsruhe on Saturday evening. They told me it was very uncertain whether he would be there on the Sunday. I took a carriage, and went on Sunday towards Baden to meet him.

As you were on your road to Baden did you meet any person? I met a gentleman in a carriage; I thought it probable he might be coming to Carlsruhe, and I asked the post-boy whether it was the baron d'Ende, and he told me it was.

What did you do in consequence of that information? I turned the carriage, overtook him, and gave him the Queen's letter, which was addressed to him, "The Baron d'Ende, Chamberlain to the Grand Duke."

Did you speak to the gentleman who was in the carriage? I did.

By what name? I asked him if I had the honour of addressing the baron d'Ende.

What answer did he give you? He told me that was his name, and I then presented to him the letter I had from her majesty.

Did he open that letter? He did, in my presence.

Did he read the letter? Yes, he did; he then invited me into his carriage, and drove me back to Carlsruhe with him.

To what house did you drive at Carlsruhe? To his own house, the house at which I had previously called for him.

You had some conversation with him on the road, and at his house, had not you? I had.

From the conversation that you had, have you any doubt whether it was the baron d'Ende with whom you were conversing? I have not the slightest doubt of it.

How long did the baron d'Ende remain at Carlsruhe? He informed me that he had business that would detain him till Tuesday, and that his minutes were at Baden; and that, without consulting those minutes, he could not answer accurately the questions I had asked him.

Did you yourself remain at Carlsruhe? I went to Darmstadt almost immediately that I had left the baron d'Ende, and did not return to Carlsruhe till the Tuesday following, in the evening.

When did you next see the baron? On the Wednesday morning.

What did he say to you upon the subject of his coming? He took me in his carriage to Baden; about mid-day we started, and arrived there about five or six in the evening; this was on Wednesday the 20th.

When you arrived at Baden, what did you do there? I took down his deposition in writing; he consulted his diary or journal he keeps of every day's transactions, and I took down his deposition in writing.

Did he show you any letter he had received? He showed me several letters he had received from her majesty, directed to him as the baron d'Ende.

How long did you remain at Baden with him? Only that evening; I left Baden at five o'clock the next morning, and did not see him that morning.

When you left Baden, had the chamberlain stated any thing to you about his coming over to England? Yes, he had; he said that as the information he was going to give would be in his official capacity, his friends thought he could not go without the consent of the grand duke.

Do you know whether the grand duke was at that time at Baden? I know he was absent from Carlsruhe and from Baden; he was on a tour.

Did you learn, through the baron d'Ende, when the grand duke returned?

Mr. Attorney General objected to the question: what the baron had said to the witness, was not evidence.

The Counsel were informed, that the correspondence on this subject having been printed, they were permitted to proceed in the evidence.

Did you learn from the baron d'Ende when the grand duke returned from Baden? On the evening of the 20th the baron d'Ende said, that the grand duke was not at Carlsruhe, and that the instant he returned he would come to Carlsruhe to ask his permission to go.

Do you know whether he afterwards went to the grand duke to ask his permission? On the morning of the 23rd of September he called upon me, and he had in his hand the letter of her majesty; he told me he was then going to the palace to ask permission to go as a witness; I went to the door with him, and I saw him go towards the palace; in about half an hour I saw him again in the street; I went out to him to speak to him, and he addressed me by saying, "I have bad news for you; I am not permitted to go."

Did he afterwards take you to his house? Yes, he did; he took me to his house; he appeared agitated, and extremely vexed that he was not permitted to go; and he caught hold of my hand, and put my hand to his heart, and said, "Feel how my heart beats."

Did you after that make any other application to him? On the same morning, about an hour or two afterwards, I wrote him a letter, of which I have a copy here; I was fearful he might be out; I intended to have spoken to him, but fearful he might be out, I wrote a letter, and left it for him, for he was out when I called.

Was that addressed to baron d'Ende? It was.

And left by yourself at his house? Yes.

Did you receive any answer to that letter? By a friend of the baron d'Ende, a lieutenant in the life-guards of the grand duke.

Do you remember his name? Schweitzer, I am confident his name is.

Was that answer a written answer or a verbal one? A verbal one.

What was the answer that he sent to you? That he could not make the deposition without the consent of the grand duke, and that he declined sending a written answer to her majesty's letter.

Examined by the *Lords*.

Earl of *Liverpool*.—After you had prevailed on the baron d'Ende to ask permission of the grand duke to come to England, had you any reason to make you not think it very important that the baron d'Ende should come as a witness to this country.

A doubt being suggested, whether this question was objectionable, on the ground of calling on the witness to disclose that which he knew as a confidential agent, Mr. Brougham stated, that he had no objection to the question.

The Question was withdrawn.

Earl of *Darnley*.—Did baron d'Ende appear to you, when you saw him, to be in per-

fect health? He appeared to me to be so perfectly; I remember one day his medical man came, but he was out, and travelling about a great deal.

What age do you conceive him to be? I should think about forty.

The Witness was directed to withdraw; and

Mr. *Brougham* addressed their lordships as follows:—My lords; I have given your lordships an instance at least, and a very remarkable one, of the difficulties which oppress her majesty in further prosecuting her defence. I have shown your lordships in what way those difficulties have arisen in this case, without throwing blame upon any person in this country. It is a blame attachable to the proceeding itself. You cannot pursue an inquiry of this sort one step further, doing equal justice to both parties. One party has the means of obtaining witnesses, whether as the English government or as the Hanoverian government. Kress has sworn that she was compelled to come by baron Berstett, who, to say the least of it, does not compel baron d'Ende to come; who tells him, "if you choose to ask your congé"—an ominous sound in the ear of a courtier, for that congé, which may strike many who hear me to the very heart, if they will only put themselves into the situation of the baron d'Ende, means either leave to go, or no permission to come back; it is the leave which his majesty gives to a faithful servant when he never wishes to see his face again—it is accompanied by the same words—if you ask for your dismission (for ministers ask for their dismission, they are never turned out), if you ask to retire, your wish is complied with by the sovereign. In France, if you wish to go to your house in the country, you are told you may go. So the baron d'Ende is told by Berstett, "you may go to London or any where else you please;" but he does not say, "and back to Carlsruhe." This word "congé" is expressly used—this word of ill omen; and he takes the hint. I do not mean to impute any falsehood to the baron on this occasion, that he felt ill; for I verily believe that he felt ill—that he no sooner saw this word congé written in fair German characters, than that heart upon which he put Mr. Leman's hand was attacked with a second spasm, and that if Mr. Leman had been there, he would have found the second set the first at defiance. How different, my lords, was the conduct of baron de Berstett towards the witness Kress. She was told, that if she would not go by fair means she should go by foul. She has distinctly sworn in her evidence, that baron de Berstett sent her over to this country. Such is the process; not owing to the agents of the bill in this country, but owing to those who are engaged in the second branch, the Redens, the Grimms, and all that crew, of whom we have heard so much. Those persons it was, who procured the compulsion of Kress, though they did not exercise the same compulsion to procure the attendance of baron d'Ende. Now, my lords, I throw no blame upon any person. They were labouring in their vocation; as his majesty's English ministers were labouring in theirs. No man blames them for not having done what it appears they have no power to effect: they honestly and candidly attempted to procure the leave of the baron: your lordships have seen in what manner that leave was given. There may be some jocose circumstances connected with this matter, which may for a moment have moved a smile; but, my lords, I seriously and solemnly call upon your lordships to consider all these circumstances, as they are of no light or trivial import. You have manifest proof, that the process of this court, though aided by the *bonâ fide* exertions of his majesty's ministers at home, and their agents abroad, has not sufficient power to run into those places from whence witnesses might have been brought for her, with an effect that I can hardly contemplate. But I opened it shortly to your lordships on Saturday, and I ask your lordships, whether, under these circumstances, without throwing any blame upon any person, either as to the commencement of these proceedings or as to any obstructions thrown in their way as to continuing them from some causes beyond their control and beyond ours, it does not appear, that there is an impossibility of continuing this case, with justice to the Queen? And I am sure that the other party—if his majesty be the other party—I am sure, that that august monarch will be the last man in his dominions, to desire that it should continue, if it cannot be continued with justice to his royal consort.

The Counsel were directed to withdraw.

On the motion of lord Holland, the

following extract was read from the printed evidence, page 192.*

" Who paid for your expenses coming over? I do not know what the courier paid during that time.

" Who asked you to come over here? At Carlsruhe our minister M. Berstett.

" Did any other minister speak to you on the subject? When I was there, I had seen nobody else.

" When you were at Carlsruhe did any other person speak to you about coming over here? M. de Geilling.

" Who is M. de Geilling? He is at court, I do not know what office he holds there.

" Did any other person, besides, speak to you upon coming over? The ambassador of the court of Wirtemburg, whilst I was still at the post inn.

" Did any body else speak to you about coming over? M. de Reden.

" Who or what is M. de Reden? They told me he was the ambassador of Hanover.

" Does he live at Carlsruhe? Yes.

" Did he examine you upon this subject? A M. de Grimm asked me first.

Who is M. de Grimm? The ambassador of Wirtemburg.

" Did you ever leave Carlsruhe before, to go any where else on this business? Yes.

" Were you ever at Vienna upon this business? No.

" Did you ever see colonel Browne? No.

" Did you ever see colonel Deering? I know not what was the name of the gentleman where I was.

" Where were you, in what place? At Hanover.

" When did you go to Hanover? It was on leaving the post inn I was called to go there; the same quarter of the year.

" Who called you to go there? M. de Reden.

" How long did you remain at Hanover upon that occasion? Six or seven days, I cannot tell exactly.

" Were you examined there upon this subject? They asked me whether I had seen such and such things.

" Did you go back from Hanover to Carlsruhe? Yes.

" What did you get for going to Hanover? I received a small payment, just for the time I had lost."

The following extract from p. 202,* was also read:

" Who was it that told you you should get compensation? The minister, our minister.

" Which minister? I said to him I must be compensated for the loss of my situation; that I should lose my place by it, and I must receive some compensation for it.

" What minister are you speaking of? M. de Berstett; that gentleman told me that if I would not go voluntarily, I should be forced.

" Whose minister is he? I cannot tell this.

" Is he not minister of the duke of Baden? I do not know whether he is minister of foreign affairs, or for the interior.

" Did he not come to the rooms in the inn where you lived? Not M. de Berstett.

" Did not M. Von Reden come to look at the rooms in the inn, while you were there? I did not see him.

" Do you know that he was there? I cannot tell, I have never seen him.

" Did you see, after the princess left the inn, any other gentleman come there to look at the room? I have seen nobody except Herr Von Grimm, who came in the rooms, and walked about there; he lodged in the inn.

" How long had Herr Von Grimm lodged in the inn, before the princess came there? I cannot say this, I have not paid any attention to this, I had other business.

" What part of the house did Herr Von Grimm lodge in? He lived in that house, in No. 13, and his brother in No. 14; before the princess arrived he lived in No. 12 and 13.

" Did he not give up No. 12 for the accommodation of the princess? Yes, as much as I have seen.

" Did he not return after the princess left, and go into No. 12, to look at what was there? Yes, he ran about just when the rooms were left open, and he took again the room afterwards.

" Was there any body with him when he came to look? When he ran about

* See Vol. 2, p. 976.

* See Vol. 2, p. 1078.

in the rooms there came two other gentlemen, one of them was his brother.

"Was he a German or an Englishman? I do not know this, neither; I have never heard them speak, and I did not pay any attention to it.

"What is Herr Von Grimm? As much as I could hear, he is the ambassador of Wirtemburg."

Lord *Holland* next moved, that the note from baron de Berstett to Mr. Lamb, dated Carlsruhe, Oct. 13, in page 5 of the correspondence upon their lordships' table (for which see p. 963.) be now read.

This part of the correspondence having been read,

Lord *Holland* said, he had no specific motion to make, but he could not reconcile it to his duty at this particular stage of the proceedings, to allow their lordships to go on without calling their attention, in the most formal and solemn manner, to that part of the evidence which had just been read.

The Counsel were again called in, and were directed to proceed.

Mr. *Brougham.*—My lords, I have only to add, that we fling ourselves once more upon the House, that, under such circumstances as those of which the House is now cognisant, and with the recollection of what passed upon the former instance in the matter of Restelli, we feel it utterly impossible to proceed farther in her majesty's defence.

Lord Chancellor.—Do you call any witnesses on the other side?

Mr. Attorney General.—Undoubtedly, my lords, it is my intention to call witnesses to contradict some of the facts which have been adduced in evidence on the part of her majesty; but, my lords, I think it right——

Lord Chancellor.—Such witnesses as you are intitled, upon principles of law, to call in reply, you will of course be at liberty to tender.

Mr. Attorney General.—My lords, undoubtedly it is to such witnesses alone that I allude.

Lord Chancellor.—The Counsel for her majesty cannot be called upon to sum up the evidence, until such witnesses have been adduced. Whether they are of that character, the court cannot decide until they are called.

Mr. Attorney General;—

I trust your lordships will give me credit for not intending to call any witnesses, but such as I consider to be fit and essential witnesses in this stage of the proceeding. But I am about to call your lordships' attention to a part of the evidence which has been given on the part of her majesty—a part wholly unexpected from the opening of her counsel. I mean that part of it which was called for the purpose of establishing a supposed conspiracy and supposed misconduct on the part of those gentlemen who have been called the Milan Commissioners. I say, this was wholly unexpected; because, as your lordships will recollect, in the address of my learned friend, Mr. Brougham, he expressly stated, that he did not mean to assert, that there was any such conspiracy; and therefore, although he reasoned hypothetically on the manner in which the witnesses were called and their evidence given, I understood him, as your lordships must have understood, that it was no part of his Case, to establish such a conspiracy. However, your lordships will recollect, that, at a critical period of her majesty's defence, witnesses were called, with a view to establish that undue practices had taken place, on the part of colonel Browne and a gentleman connected with the Milan commission, to procure witnesses; and not only to procure witnesses, but for the purpose of procuring papers, which might be important for her majesty in her defence. When that case was attempted to be established before your lordships, I felt it my duty immediately to apprize colonel Browne of that state of the proceeding, and to require his attendance before your lordships. At the distance at which colonel Browne is from your lordships, it is impossible I can call him at this moment to your lordships' bar; and I am sure your lordships would not forgive me if I called other witnesses, and should then interpose in the midst of that case attempted to be established on our part, in opposition to that on the part of her majesty. Your lordships would not have forgiven me, if I had interposed some witnesses, and had then asked for delay for the purpose of calling others. Although, therefore, I am prepared with some witnesses of the character to which I have alluded, yet undoubtedly, colonel Browne is not at present here; and therefore, consistently

with the justice which your lordships are about to administer, consistently with that case which has been attempted, I will not say how futilely, to be established—colonel Browne's name having been introduced—I feel it essential, in the part devolved upon me of adducing evidence on the part of the bill, to tender this evidence. And I conceive it would be unjust in the highest degree, to prevent our laying before your lordships the whole of that evidence which we think we shall be able to lay before your lordships, in contradiction to that attempted to be established. Two of the gentlemen connected with him in that commission are now in town. Them I may call before your lordships; but, as colonel Browne is an important person, your lordships will expect that he should explain his conduct; and therefore I trust your lordships will not call upon me at this moment to produce those witnesses now here, but will allow me an indulgence of some time for the production of colonel Browne to contradict the foul aspersions which have been cast upon him, and to explain the manner in which he, and the other Milan commissioners, have conducted themselves.—Under these circumstances, I throw myself on your lordships' indulgence, to grant to me that time which may be necessary to produce colonel Browne, in contradiction to the case attempted to be set up on the part of her majesty; and I shall then be able at once to close the case legally. Your lordships will give me credit for not wishing to produce any witnesses whom I am not strictly entitled to call. I trust your lordships will, under these circumstances, see that it will be the height of injustice to preclude this evidence. An impression will go forth, that improper means have been used to prepare this case on the part of the Milan commission; and therefore it is, that I feel it important to produce this evidence, which I am confident will be satisfactory both to your lordships and to the public.

Mr. *Brougham*.—And now I ask, whether your lordships are a court of justice? [These words were delivered with a vehemence of tone and manner which seemed to produce an electrical effect throughout the House].

Mr. Solicitor General;—

Before Mr. Brougham replies to the application made by my learned friend, I would address a few words to your lordships. All of us of counsel in support of the Bill, have considered the situation in which we stand, in consequence of the charges preferred by one of the witnesses on the other side against colonel Browne, and we feel it absolutely necessary, that colonel Browne should be called as a witness for the purpose of repelling those charges. My lords, if the evidence, particularly the evidence of Omati, and some other evidence to which I might refer, had been opened by Mr. Brougham—if he had stated specifically the facts which he afterwards proved in evidence, undoubtedly it would have been our duty to have sent immediately to Milan for the purpose of procuring the instant attendance of colonel Browne. But we were not apprised that any evidence of that description was to be given. We feel it, however, absolutely essential for the character of colonel Browne, and for the characters of the gentlemen concerned in the Milan commission—we feel it absolutely essential, with a view to the measure before your lordships, and for the purpose of contradicting the witnesses on the other side, that colonel Browne should attend here in person. We have concurred in the necessity of making this application to your lordships. Whether it be or be not a just application, will be for your lordships to decide. But when a witness called on the other side states a direct fact, affecting the character of colonel Browne, and when he states that for the purpose of influencing your lordships judgment in reference to this cause, it is too much to say, considering the nature of the charge preferred against colonel Browne, that we claim too much, when we ask an opportunity of producing colonel Browne as a witness at your lordships bar.—My lords, the charges that proceeded from the other side were made without specific notice. It is therefore impossible, that we should be prepared to meet them; but, the instant those charges were preferred, the instant those witnesses appeared at your lordships bar, my learned friend, the attorney general, desired, that a messenger should be sent off to Milan, for the purpose of procuring the personal attendance of colonel Browne, in order that those charges might be met and rebutted. My lords, it is upon these grounds that I humbly submit we are entitled, I will not say to the indulgence, but to the justice we claim at your lordships hands; and I am quite

sure it is impossible, that any arguments or any reasoning can be urged on the other side sufficient to repel the justice and the propriety of the application which we now humbly submit to your lordships.

Mr. *Brougham*;—

Nothing, my lords, which has fallen from my honourable and learned friend, who has now addressed you, induces me to depart from the question which I put, "whether your lordships are now a court of justice"? Whenever it suits the purposes of my learned friends for the prosecution—when they feel, that they can exclude evidence by tying me down to the forms of the courts below, by binding me round with nine-fold technicalities, to prevent my stirring one step through the mazes of the conspiracies and the perjuries with which they have attempted to entangle my illustrious client—and when in order to break through those mazes, I appeal to your lordships as a house of legislature, they refer to the proceeding, not as a suit, but as a bill,—I am told, that this is a court of justice, and that we must be guided by the forms of judicial proceedings. Now, however, when it suits the purpose of my learned friends, when they think they can better their case by departing from all forms, by abandoning all regularity of proceeding, by flying in the face of every principle which guides all courts below, by adopting new forms, by creating new principles which, if they deserve the name of such, never entered into the head of a practitioner in a court before—now, I presume, I am at length to hear, that this is no longer a court of justice, but that your lordships have an ampler discretion to exercise as a court of parliament—have a wider field to enter upon as a place of legislation—and that I am not to appeal to the forms and technicalities and rules of courts below. My lords, I ask, whether in any court since justice was administered in this land, since proceedings were pretended to be regular, since any thing like fairness between parties was ever known to be dealt out, and regulated in its dealing out, by what are called forms and modes of justice —I ask your lordships, whether any thing so monstrous as this proposition was ever made—I will not say ever entertained, but ever attempted to be made before? Why, my lords, what is it that is now asked? The Queen is on her defence. She is a party here. Colonel Browne is not here as a party. Colonel Browne is not upon his trial. But because, forsooth, his name has been mentioned—because his conduct has come in question—because things have been sworn to, which appeared to affect him—the Queen is to be forgotten—no, not forgotten, but to be injured, to be trampled upon, in order to save the reputation of lieutenant-colonel Browne, of I know not what hussars, but I know full well of what Milanese commission. My lords, is this common justice to her majesty? When have we ever attempted such a deviation, I say not from all rule or form or technicality, but from the principle and substance of justice? When have we ever asked your lordships to contemplate such a deviation? And against whom, and for whom, is this monstrous novelty sought to be introduced? *Against* the defendant, who ought to have all presumption in doubtful matters in her favour, all leanings, all advantages, given to her, where the scales hung even; and *for* the prosecutor; because, forsooth, one of the favourite agents of the prosecutor has come into some jeopardy in the course of the Queen's defence! Again let me entreat your lordships to reflect, that colonel Browne is here no party; and that if his conduct comes in question, he must defend it how he may, after the Queen's case shall have been disposed of. First of all, to her you must do justice.

My lords; I am told by my learned friends, that they were taken by surprise upon this matter. Now, my lords, first of all, I protest against being called upon to argue the merits of this point. It is enough for me to say, that it is the most unheard-of thing, upon any grounds of surprise or otherwise, to stop the defence of an accused party, in order to get time for the prosecutor to mend his case against the accused person, and in favour of one of his own agents. But if I am called upon—if your lordships will, that I should proceed to argue upon the merits of it, I say those merits are as decidedly against my learned friends, as entirely with us, as those on which I am willing to rest my objection. My lords, it is not true, that they were taken by surprise. If in the course of my opening, I said "I charge no man with conspiracy," could any man who did me the honour to attend to my observations entertain one moment's doubt, that part of my case was that which was tantamount to conspiracy?

Did I not, the very instant that I, as it were, abandoned the word, cling closer to the thing? Did I not, in saying that I charged no man as a conspirator, wishing to avoid an odious word which, to this moment, I did not make use of, and which in the course of all these discussions I have abstained from—neither saying plot nor conspiracy—did I not, when I said that, instantly follow up that expression of abstinence by a substantial statement, which, I trust, lives in the recollection of those who have thought fit to remember a part of it—who have thought fit to remind your lordships of a part of it—did I not add, that if those persons—though I gave them no harsh names, though I brought against them no random charges, though I made against them no accusation of plot or conspiracy—had been conspirators, if they had been concerned in a plot against the Queen, they could not have carried on their plan more like plotters and conspirators than they had done? That was a general notice of what was to be the nature of a part of my defence. But, my lords, can any man believe, making all the allowance you please for the latitude of statement in which counsel are accustomed to indulge—can any of you believe for an instant, that the authors of this bill, that the planners of the destruction of the Queen, by means of the Milan commission, that the getters-up of this Evidence, thought that colonel Browne and the Milan commission were out of the case all the while? Did they really—I would put it upon that—did they really come to this court, either on the 17th day of August, when we met, or upon the 3rd of October, when the Queen's defence was begun—did they really think for one instant of time—did they flatter themselves—that they were to steer through the whole of this case without any attack being made on colonel Browne and his coadjutors in getting it up? My lords, on the answer which every man of common honesty, every man of ordinary sense, must give to this question, I am willing to rest my defence against this last of the unheard-of aggressions on justice and the Queen, to which we and justice have so long been exposed.

My lords; they were not taken by surprise, even as to the individual witness of whom they now make mention. They refer particularly to the evidence of Bonfiglio Omati. It is to rebut his evidence that they have sent for new witnesses to Milan. Did your lordships see the cross-examination of that witness? Did your lordships look at the brief my learned friend held in his hand, and which he produced from his repositories the moment Omati's name was pronounced? No sooner did those words Bonfiglio Omati escape my lips, than those innocent gentlemen on the other side, the agents of the still more artless commissioners at Milan, ignorant that their conduct was to come in question, taken by surprise when conspiracy was attempted to be proved, without any notice given by me in the opening, whether it was to include an attack upon their measures, totally ignorant of the very name of Omati—the very instant that his name was announced by me, they took out of those repositories which they have so amply filled for their use, a brief containing a formal statement that enabled them, and from which they felt themselves enabled, to cross-examine Bonfiglio Omati specifically. And how did they do this? Those persons who had no notice given them—those persons who had been kept in the dark—those persons to whom the existence of Omati was a secret until they saw him here, were enabled to produce that brief by which they cross-examined that witness with regard to a proceeding which had taken place months ago at Milan, in which Omati was a witness; in which Omati had deposed there, as he has here, in which Omati was the principal testimony on which an action was brought to recover damages for Vimercati's conduct—that very conduct which forms the subject of his testimony here, that very conduct which forms the proof of conspiracy against those simple, innocent individuals. They knew that that process had been instituted at Milan;—they knew by whom,—Codazzi; they knew against whom—Vimercati and his employers; they knew for what damage—the taking away the Queen's papers, by bribery; they knew by whose testimony—Bonfiglio Omati;—and they have that deposition, or the substance of it, in a brief, from which they examined that witness——

Mr. Attorney General.—Not a syllable of it.

Mr. *Brougham.*—Whether they had or had not makes not the least difference. They were aware of his name; they knew he was to appear, and they put question after question—I am in the recollection of your lordships whether they did not—as to declarations he had made to colonel

Browne, which colonel Browne, and no other, could have furnished them with prospectively, in case he should be called as a witness. And now they complain of a surprise—of being taken unawares! Nothing but respect for my learned friends prevents my saying—but I will say of their employers, though not of them—that they have the audacity now to complain of surprise, and to say, that colonel Browne had not due notice of the charge against him; and I suppose next we shall hear, that he was not furnished with a list of the witnesses to prepare him to meet those charges, and a specification of those charges which such witnesses were to support against him. My lords, we complained of those omissions; we felt them at the beginning; we foresaw their fatal effects; we have felt them through the course of these proceedings; but that which we never foresaw, and that which we do feel bitterly is, that there was a possibility of such an application being made to the House as the present. Will your lordships stop short in the defence of the Queen; will you suspend her once more in a state of anxiety and irritation, such as, without actual disease, I solemnly assure your lordships I never saw in the human frame—an irritation most natural, when your lordships recollect the unparalleled circumstances in which this illustrious victim has so long been kept by you and by her prosecutors? Will your lordships continue this state of torment to that illustrious lady? Will your lordships deviate from all rules of justice in the courts below, from all your own modes of proceeding, from what you have yourselves laid down in the case of the application as to the Lugano witnesses—from what you yourselves laid down when we made such application, when you refused it, when you held us to the rules operating in the courts below, and would permit no deviation from them. Will you make this deviation now? Will you thus plunge out of all regularity of procedure into something which, as it is involved in the dark, as it partakes of nothing but mystery, as it is lawless, as it is wild, as it is unknown—(I need say nothing here but the simplest word, unknown)—to lawyers, unknown in courts—will you do all this, in order that, after having kept that illustrious person in the state in which the conduct held towards her has detained her so long, and in such torture, you may enable the other side to obtain evidence to mend a case rotten in itself, and which the evidence we have produced has shattered still more entirely, in order that you may terminate the whole scene of oppression, wrong, irregularity, anomaly, by perpetrating an act compounded of cruelty, needless, gratuitous, shameless cruelty, as well as injustice.

Mr. *Denman*:—

My lords; I feel that I should be deserting my duty, if I were not to offer a few words upon an application which is not indeed unexampled, because a similar one proceeded from my learned friends before, but of which the concession would be without example, without principle, without foundation, in justice or in right, and would be fatal, not only to the interests of this royal person, but to the cause of justice on the trial of every individual. What is the ground upon which this unheard-of application is made? The simple ground is this—that colonel Browne is not in England, but at Milan. My lords, we complain of that fact. Colonel Browne ought to be in England. He must explain his conduct. He must defend his practices. But, is the Queen's defence to be delayed on that account? Why was he not here before? And is it not, of all the anomalies from the beginning of this strange case to the present moment, the most anomalous and the most to be condemned, that the House and the country are at this moment in profound ignorance of that process by which her majesty is brought upon trial? The Milan commission it is which has set these proceedings in motion; unless I should refer to an anterior commission, emanating from the Hanoverian government, and of which we can find no instance but in the archives of Hanoverian justice. I ask, whether it is not to the last degree monstrous and cruel, that we should have been contending with these great powers, utterly in the dark, without the slightest knowledge of the powers under which they have acted and a commission sent to three English subjects to prosecute such an inquiry, without instructions by which they were to limit their proceeding, or bring it to a just conclusion? My lords, we talk of the courts below—we ought to blush and hide our heads when their names are mentioned. What person in the courts below is ignorant of the means taken for his prosecution? He knows that the grand jury is the body by

whom the *primâ facie* case of his guilt has been recognized; but we are totally ignorant of the means by which we have been brought here; without a knowledge of which the accused cannot meet the charge with effect. Therefore, instead of the absence of colonel Browne being admitted as an excuse — so far from that being a reason for further indulgence — it is a reason for further condemnation; and colonel Browne ought to have been here, as a Milan commissioner, in the first instance, even if not wanted as a witness in the second. But, his character is to be cleared, and every body's character is to be cleared, except that of the Queen of England. I have said nothing of this Milan commission at present; but I know it may be essential to the defence of her majesty, to charge those three commissioners, one after another, with the most gross and infamous misconduct. I do not say I have the means of doing it; but I say it may be essential to my defence; and before I am permitted to enter upon that defence, I am met at the threshold with a cloud of panegyrics upon the character and conduct of every one of the persons who have been so concerned — upon the character of Mr. this, or the character of Mr. that, and upon the character of every person concerned in that commission — I am stopped on the threshold of that which I attempt, by these panegyrics; some applied to the character of those who have been named, and some drawn up in blank, to be applied to the characters of others who may be shown to have taken a part in it. — My lords, I say colonel Browne ought to have been here. I complain of the pretence on which this additional delay is now called for — and called for, I will say, with no more regard for her majesty's feelings, than if she were the inanimate subject of a chemical experiment. My lords, when it is said, that these persons who were employed upon the Milan commission did not expect their conduct to be investigated, it is false. Every page of the Evidence gives the lie to that assertion. There is not a witness, from Restelli forwards, who was not asked as to his practices with Vimercati and colonel Browne. Scarcely had Majoochi commenced his examination, when these questions were put to him. How can it be said, that they were not prepared to meet facts of that description? If colonel Browne was ready to send that statement from which the cross-examination of Omati took place, the same vessel which brought over his statement might have brought over himself, and we should then have had him here to answer as to that conduct which is so much impeached. My lords, I do not condemn colonel Browne unheard; but the Queen is intitled to the same consideration of her conduct, in a case in which female honour and female feeling are so deeply affected. If the delay asked for, be permitted, this proceeding must be of an interminable length. It will be worse than any sentence you can pass upon her majesty. What is there in this proceeding which intitles the prosecutor to ask for this indulgence? This is a Divorce bill — it is also a bill of Degradation and Dethronement. Is it a Divorce bill, my lords? We came here and argued it upon the ground of a Divorce bill; but, the next day, we heard, from an authority which could not be disputed, that the Divorce part of it was no longer an object with those who supported the bill. But supposing that part of it to be abandoned, still it is a bill of Degradation and Dethronement — supposing your lordships are to do nothing but inflict an opinion upon this lady's conduct without daring to follow it up by any measure. We are ready to meet our accusers, and to enter upon our defence. What is it that intitles my learned friends to this indulgence? It is quite clear, that if that indulgence be granted, it must necessarily be reciprocal, and there can be no end to these proceedings. And when I listen to what is going on in the world, I am by no means sure, that those who have instructed my learned friend to make this application do not look to that as a probable event. If colonel Browne is intitled to this indulgence, every witness called against him will be intitled to it. We shall have to send off every three weeks for fresh witnesses to Milan, and it is impossible that this sort of enormous process, almost too much for the strength of man to bear, and the mind of man to comprehend, can be brought within any limits.

My lords; we were told, when this was talked of as a measure of substantial justice, that no list of witnesses were delivered, no charges of time and place specified, but that in the conduct of her defence, her majesty, the Queen, should have almost her own time in asking for the

means of bringing it forward. That time is now come. That defence, under the circumstances under which it now rests, we think it our duty to bring now to a close. Are we not to be permitted to do so? Are we in this to be deluded and deceived? Look, my lords, at the whole of the conduct that has been pursued from the commencement of this proceeding. It is three years ago since the Milan commission began to sit; and, so far from its being said, that my learned friend, Mr. Brougham, did not open the case of Omati, it would be a little more liberal to ask, whether Omati was at that time in this country, and in a situation to have his evidence opened. It was hardly so. He did not arrive in time for the statement to enter into the speech of my learned friend, Mr. Brougham, but, in every other part of the evidence, no man can doubt that the conduct of the Milan commissioners was that to which our evidence was meant to refer. If they had then intended to defend their conduct, they might then have done so; and, if they did not mean to defend their conduct, why is the Queen to suffer by the danger and the disadvantage of a longer delay?

My lords; the question is, what my learned friend set out with asking, "Are you or are you not a court of justice?" Will any man tell me of a court of English justice in which an attack made on the case of a prosecutor has been assigned as a reason why a defence should be delayed beyond the period at which the trial takes place? My lords, it is fit a little to look back to the mode in which this case has been conducted. We had no notice when my learned friends and myself proceeded with the defence; we asked for no indulgence. We demanded, as a matter of right, to be enabled to prove certain facts. Surely we ought to have been then told, that we might make our election; or, if the election was not given us, we ought to have received notice, that if we intended to call those witnesses, a longer time would be asked, to enable them to contradict our evidence; and, if your lordships did not give us that notice, I think my learned friend had notice enough of our intention, to tell us, that such an application would be made, whenever we closed our case on the part of the Queen. No such notice was given. We are taken by surprise, as we were when the application was made in regard to those fictitious witnesses at Lugano; and my learned friend, without having stated one word upon oath as to those supposed witnesses, was to be supposed to have those witnesses behind. I think that was a subject of complaint; but it was utterly out of the question, that even that could have justified such an application as the present. It is impossible it can be granted. I rely upon your lordships, who are supposed to be sitting in a court of justice. From the moment of the commencement of this proceeding, we have had no such indulgence granted to us. Her majesty the Queen requested that the whole of the proceedings should be delayed until they could go on to their end at once. That would have been the conduct of a court of justice; but it was refused. It was said, "We will begin: go on with and prove your case, and then the time necessary for her majesty's defence, shall be liberally granted." Good God! my lords! was it believed that when my learned friend, the Attorney-general, had opened the case with all the zeal he did — that after the Solicitor-general, had summed it up with all the acuteness of his able mind, that our mouths were to be sealed for three weeks, and that statement to be making its way in the public mind without an answer or a comment? That is all we have to fear; and if we can get over the consequences of that most inconvenient circulation of slander, we have nothing to fear from your lordships. We will satisfy your lordships — we will satisfy the country — we will satisfy all posterity, that her majesty has been most foully and falsely accused, and that she is now intitled to your complete acquittal.

Mr. Attorney General.—

My lords; my experience, in the course of this proceeding, has taught me not to be surprised at any violence of expression or any mis-statements—for so I must call many of the statements on the other side of the bar. But, my lords, I am now accused of making an application unheard-of in a court of justice. Your lordships are told, that I am not applying to your lordships as a court of justice for justice to the cause of which I am the feeble advocate at your lordships bar; but that I am calling for an indulgence unheard-of, or unthought-of, in the course of any similar proceeding; and we are

now assailed for the tenth, nay, I believe, the twentieth time, with declamation on the hardship of the Queen's situation. Give me leave to say, that, so far from hardship being imposed upon her majesty, no one ever had the advantages which she has had. She has had no previous list of witnesses, or specification of the accusation; but she has, through the medium of her counsel, heard every fact which could be alleged. She had then all the time she wished to ask for, to prepare for her defence. And yet we are told, that her majesty comes to her defence, under disadvantages such as no person ever had. My lords, I say no person ever before had such advantages. She heard the whole of the case against her; and after that, she had the whole time which her counsel thought fit to apply for granted to her, to prepare for her defence—a much greater advantage, than the being furnished with a list of the witnesses and a specification of the charges would have afforded her. And then I am told, that her majesty is labouring under a disadvantage! But what, my lords, is it that I have to complain of upon this occasion? That her majesty's counsel did not open the case which they afterwards attempted to prove. From my learned friend, Mr. Brougham, you have heard, that, the word conspiracy hardly ever dropped from his lips; from my learned friend, Mr. Denman, that he never stated any thing by way of inculpation of the Milan commission. But though they may originally have said nothing about a conspiracy, what, I ask, has been the conduct of my learned friend in the progress of this case? After they had offered those witnesses whose names are fresh in your lordships recollection, lieutenant Flinn and lieutenant Hownam, they took a different course. So far from proceeding in contradicting the facts of the case, they went into this collateral inquiry relative to a supposed conspiracy to suborn witnesses in support of the bill. Nay, they did much more. Having failed to establish that any one witness produced has been suborned, or attempted to be suborned, they set up another case unheard-of in a court of justice—that there were other witnesses whom there was a conspiracy to suborn to produce here. And then your lordships were asked to infer from this conspiracy, which existed only in the breasts of my learned friends, that a conspiracy was formed to suborn the witnesses who had been called. I took the objection that such an inquiry was perfectly collateral, and was confirmed in that objection by the opinion of the learned Judges, that it could not be received. But your lordships will recollect that that inquiry was permitted to be entered into, I not objecting to it—an inquiry which I could not have anticipated, either from the law or the facts before me. And your lordships will be good enough to recollect, that at the time that inquiry was permitted to be entered into, I did throw in my claim before your lordships, that, if a case was attempted to be made out by the other side, on any evidence laying the foundation of such a supposition, I should have time to answer that case if it should be made out. I say, my learned friends, in common candour, should have said at that time, "we will enter into that case; we have a right to enter into it, though we have not glanced at it or opened it in the least: we think it right now to divert your lordships attention from the alleged facts to this collateral inquiry." It would have been but common candour in my learned friends to have said, "we admit this cannot be done legally, as your lordships have decided it could not be, but we will enter into it, and though we may be able to prove facts against colonel Browne which he might be able to answer you shall not have an opportunity of producing him."

My lords; I am accused of standing here to abandon the case of the Queen and to defend colonel Browne. My lords that is not the fact. I call the attention of your lordships to the evidence of Omati and Mioni. And is not colonel Browne to be called to your lordships bar to answer this case? and am I to be told I am not taken by surprise, because I had a right to expect that the Milan commission would be attacked, when my learned friend Mr. Brougham says he never used the word "conspiracy" as applied to the Milan commission, and when you hear Mr. Denman say, that he has not uttered one word about the Milan commission, although he says he shall prove, one by one, against them, the grossest and most infamous misconduct!

Mr. *Denman*.—I beg your pardon, I said no such thing. I said it might become necessary for my case, and that I might be furnished with such evidence.

Mr. Attorney General.—Then, have my

learned friends done with their case, or are they now to enter into a new case upon this part of the subject? I ask of your lordships to have an opportunity of placing colonel Browne at your bar, to answer that part of the case which I say no man, after having heard the opening and the evidence up to the period of Omati and Mioni being called, would believe was intended to be produced. I say, it was their duty, not perhaps to open the particulars of the evidence, but to say, "we shall produce evidence to affect the Milan commission and the agents acting under it." My lords, neither in that opening speech of Mr. Brougham, nor in the more detailed speech of Mr. Williams, from the one end down to the other of them, was there the least notice given, that they intended to produce such evidence as they did produce, after that of Hownam and Flinn. I submit to your lordships, I am making no unheard-of application to your lordships' justice. My learned friend, Mr. Denman, insinuates, that I have been instructed by some person to make this application, whose object it is, to delay the proceeding. I know not whether my word will be taken by your lordships—I regret, that it is not by my learned friend—but I solemnly declare to your lordships, that it is an application made at my own suggestion, in concurrence with my learned friends who stand round me. I say I am sorry my word is not taken by my learned friend. He has stated that, which he ought to have had higher authority for stating, before he attempted to throw such an imputation upon my character, as that I applied to your lordships for time to produce fictitious witnesses from Lugano. My lords, upon what ground does my learned friend make that statement? I ought never to appear in this or in any other place again, if I could ask for delay in order to produce fictitious witnesses: but the existence of the witnesses is proved. Colonel Teuille, their own evidence has admitted, that he met a man of the name of Rosi from Lugano, who was one of those witnesses, at Paris, on his way to this country. Yet my learned friend states, that I had the infamy and wickedness to apply to your lordships upon the subject of witnesses never intended to arrive in this country. My lords, no such thing exists. The witnesses were upon the road—my learned friend knows it as well as I do—my learned friend knows that some of them are at this instant in this country, those very witnesses stopped at Paris. And yet, by way of inflaming your lordships passions and those of others, these assertions are made at your lordships bar, without the slightest foundation. In justification of my own character, I trust your lordships will excuse my stating so much, lest my character should suffer from my silence; for no man would deserve to hold up his head in any society, who would attempt to play a trick upon your lordships, by asserting that witnesses were expected who were not in existence.

Then, my lords, what is this unheard-of application as it is termed, by which I am converting your lordships from a court of justice to something else? It is this—that I may have an opportunity, in justice to the case, of producing colonel Browne at your lordships bar, for the purpose of contradicting the witness Omati, and the other witnesses who were called, whom I had no reason to expect, from any thing hinted at by my learned friend, Mr. Brougham, or my learned friend, Mr. Williams; but, on the contrary, although my learned friend, Mr. Brougham, commented with that acuteness which he possesses, on the witnesses called, and the manner in which he was brought to this country, he never hinted, that he should produce evidence to prove a conspiracy, or any improper conduct on the part of the gentlemen composing the Milan commission. My lords, under these circumstances, the course pursued was not only a surprise upon me, but a surprise upon your lordships; and now that my learned friends have produced this evidence, and your lordships have admitted that proof as being material to the Queen's case, I ask not your indulgence but your justice, when I ask your lordships to allow me an opportunity of producing witnesses at your lordships bar, to rebut that part of the case attempted to be established.

My lords; upon the present occasion I have no other motive but that of justice to the task imposed upon me by your lordships. I have every anxious wish, that this proceeding should terminate as soon as it can do, consistently with the ends of justice; but it is my duty, and I shall as long as it is my duty, without regard to the calumnies and insinuations on the other side of the bar, tender to your lordships that evidence which appears to me to be material. Nothing shall deter me from

doing it upon the present occasion, or upon any other; I have done it from a sense of duty. It is with your lordships to deal with it; but in dealing with it, your lordships will not look to what may be said here or elsewhere, but will be regulated only by a regard to substantial justice, in the inquiry which is now pending before you.

The Counsel were directed to withdraw.

The *Lord Chancellor* said, they had now arrived at a most important stage of these proceedings; and if no particular circumstances had arisen, he took it for granted that they would now have gone on in the regular and ordinary course. The attorney-general, he conceived, had acted perfectly right in making the proposal which he had done, and her majesty's counsel were equally justified in opposing it. In his opinion, witnesses of the description alluded to, might be called, under the limitations and restrictions which must always apply to testimony so introduced at their bar. He owned, that the subject came somewhat hastily before him; but unless he very much forgot what had previously occurred, many of those among their lordships who thought fit to allow the evidence to be produced which had been given towards the close of this proceeding, argued for the admission of that testimony, on the express supposition that time would be given for the appearance of colonel Browne. He felt bound to state that, as one of the grounds for the motion he intended to submit. If the attorney-general had been justified in requiring delay, the other side had been equally warranted in resisting it; but whether the application should or should not be granted, remained for the House to determine. The application had been made upon two grounds, and he begged to preface the statement of them by observing, that, in the course of the argument just concluded, many topics had been urged to which at this moment it would not be proper for him to refer, but which must be most gravely discussed and considered by their lordships hereafter. The two grounds were—first, the charge against the character of colonel Browne; and, secondly, with reference to the bearing of his evidence on this inquiry. The House was able to appreciate in what way and to what degree the character of colonel Browne was implicated; but, with regard to the second ground, and what was supposed to belong or not to belong to the proceedings of courts of justice, it must be remarked, that there was always this difference between the proceedings of parliament and of the ordinary courts of justice—that, in the latter, a trial must be continued from day to day. This practice had been introduced only of late, and nothing but the absolute necessity of the thing could justify it; but he could not call to mind a single instance of a postponement of the nature now proposed. On the other hand, from the nature and constitution of parliament, it was, he apprehended, a very usual thing to adjourn, where a case to justify it was previously made out. No man who could suffer his reason to be addressed through his head to his heart would be satisfied, unless that necessity were fully established. Under these impressions, he took the liberty of assuring their lordships that he was not, without an interval, able on this subject to arrive at a satisfactory conclusion. Only about thirty minutes yet remained before the arrival of the hour of adjournment; and as he was anxious and desirous to impose upon himself the task of looking accurately and attentively at every part of the evidence on the Minutes, for the purpose of forming an opinion, whether consistently, not with the technical forms of justice, but with its substantial rules, this delay ought to be conceded, he wished much to be allowed to devote this evening to that investigation, that he might be able to-morrow morning to submit to the House his deliberate judgment upon the point now before it. His lordship, therefore, humbly requested their lordships to permit him to defer his motion until to-morrow morning.

Earl *Grey* agreed, that the delay until the next meeting of the House was desirable for the satisfaction of all parties, that not only the noble and learned lord, but other peers, might, in the interval, weigh well the grounds on which the application was made. To one point he wished to address a few words, namely, the statement of the noble and learned lord, that a sort of admission had been made by the House generally that some delay might be necessary after the conclusion of the case for the Queen, in order to enable the other side to bring forward witnesses in contradiction. He recollected making no such admission, for neither then nor at any time since had a further postponement for such a purpose entered into his

contemplation. He was only desirous of stating further, that when the House came to the consideration of the subject, it would be worth while to reflect whether, if delay were to be granted, it should be granted now, or after the attorney-general should have called the witnesses in contradiction, with which he was already furnished; because, if time were now given for the production of colonel Browne from Milan, it was easy to see that it might be used for the purpose of obtaining new evidence, and getting up, as it were, a new case against the Queen's witnesses, not at present in the view of the attorney-general.

Their lordships then adjourned.

HOUSE OF LORDS.

Tuesday, October 24.

The order of the day being read for the further consideration and second reading of the Bill, intituled, "An Act "to deprive her Majesty Caroline Amelia "Elizabeth, &c;" and for hearing Counsel for and against the same,

Earl *Grey* addressed their lordships to the following effect:—My lords, as we may now entertain a hope that we approach the termination of the proceedings which have consumed so much of our time, whether for good or for evil, this is not the proper opportunity for remarking, I think it right to call your lordships' attention to a point which I propose to bring under your consideration at the most convenient period for that purpose, which will probably be immediately after the conclusion of the case. If your lordships will refer to the 373rd page of Phillipps's "Law of Evidence," you will there find the following passage:—"As informations, when judicially and regularly taken, are evidence against the prisoner, if the informant dies before the trial; so, on the other hand, where the informant himself gives evidence, the informations may be used on the part of the prisoner, to contradict his testimony. One of the objects of the legislature in passing the statutes, was, to enable the judge and jury, before whom the prisoner is tried, to see whether the witnesses at the trial are consistent with the account given by them before the committing magistrate. Thus, it was admitted in lord Strafford's case, that the depositions of a witness, taken before a justice of the peace, might be read, at the desire of the prisoner, in order to take off the credit of the witness, by showing a variance between the depositions and the evidence given in court *vivâ voce*." It seems to me, my lords, to be extremely important, considering the testimony which we have heard at our bar, and the nature of that testimony, that those examinations should be produced to us, on which the previous proceedings were founded. As the testimony which we have not heard may not correspond with the original testimony of the same witnesses, it appears to me to be of the highest importance to the interests of justice, that before your lordships come to any decision, you should have in your hands the testimony which the witnesses whom we have heard at our bar, gave on oath, previous to the investigation that took place before your lordships' secret committee. According to Mr. Phillipps, it is the usual practice for the Judge, in the ordinary courts, to have the depositions of the witnesses in his hands, that he may compare them with the subsequent evidence of the witnesses given before him; and it is further stated by Mr. Phillipps, in the passage which I have just quoted from his work, that it is the right of the Judge to call for the reading of such depositions, if he like to do so. I am perfectly aware, my lords, that the witnesses to whose depositions I am now alluding, were not examined in the particular manner to which Mr. Phillipps's observations refer. I am aware, that their examinations were not taken in the mode which he describes, namely, before a magistrate. But I think it will hardly be contended, that, because those examinations were not regular and judicial, but were, on the contrary, irregular and extra-judicial, therefore, the depositions of the witnesses, depositions on oath, and laid before the secret committee appointed by your lordships, were not so taken, or under such solemn sanctions as will warrant their being produced to your lordships, if a suspicion should arise that a material difference exists between those original depositions, and the evidence subsequently given at your lordships bar. Into this I will not now enter; I have stated what I have just done merely to direct your lordships' attention to the subject. At the period at which I shall make the proposition which I have described, I will detail my sentiments more fully; but I thought it only fair and candid, on a

point of such extreme importance, and one to which your lordships will, no doubt, wish to devote much serious consideration, to declare what I consider it will be absolutely necessary that we should do, for furthering the ends of substantial justice, and to intimate my intention, after the conclusion of the business immediately before us, and before we come to the consideration of the evidence, to submit to your lordships a motion on the subject.

The *Lord Chancellor*.—When your lordships separated yesterday, a question had arisen as to an application made by the attorney general to stay proceedings in the important case before us. Your lordships determined that you would take until this morning to consider the subject. With a view to forming my own individual opinion on the question, which opinion I am now about to state to your lordships, I have read through the whole of the Minutes of Evidence as far as they relate to colonel Browne. In the first place, I repeat that which I yesterday said, that the attorney general could do no other than prefer the request which he preferred to your lordships, and that if he had not done so, he would not have done his duty. In the second place, I also certainly think, that it was exceedingly right and proper on the part of the counsel for her majesty to resist the application so made. My lords, it has been my endeavour, since we separated, attentively to consider the evidence in question, simply and purely with reference to what is required by justice. My own individual opinion is, and it is the opinion by which I shall of course be myself governed, that considerations of justice do not require the delay that is sought from us. The grounds on which I have formed this opinion are these. Referring to all the evidence in support of the bill on the Minutes which relates to colonel Browne, and looking merely at the matter of that evidence, I do not think that we should do justice if we stayed our proceedings. But, in addition to the opinion, that the matter of that evidence does not warrant our staying proceedings, I am also of opinion, that if the matter of that evidence did make it fit that colonel Browne, should be called to the bar, yet, recollecting, that that evidence was given two months ago, it appears to me, that it would not be doing justice to her majesty, even, as I have said, if the matter of the evidence were not that which I consider it to be, to consent to any further delay in so solemn a case as this before your lordships, colonel Browne not being here, as he might unquestionably have been. I have also looked carefully at the case as it has been stated at your lordships bar. I use the words, "as it has been stated at your lordships bar," because it may become a subject of controversy how far some of that case may be entitled to the character of evidence. I find but the evidence of two persons whose testimony (if it is testimony that deserves credit) is applicable to colonel Browne at all. Looking at what has been stated at your lordships bar, and at the evidence of those two persons (with the credit which appears to me to be due to them), I do not think it necessary, as far as my individual opinion goes, and I do not think that it would be doing justice to her majesty, to grant the delay which has been applied for. If your lordships should be pleased to adopt my opinion, counsel must be called in and informed, that it is your lordships pleasure they should now proceed. On the other hand, if your lordships reject that opinion, counsel must be called in, and informed, that it is your lordships pleasure to grant the required delay. If, however, a question should arise on the latter proposition I, for one, will certainly not agree to it.

The Earl of *Darnley* perfectly concurred with the noble and learned lord. If the proceeding were to go on at all, the opinion which that noble and learned lord had adopted on the particular point at issue, was certainly the one most consistent with justice. He repeated, that if the proceedings were to go on at all, the proposition made by the noble and learned lord was indisputably that which their lordships ought to adopt. But what he had risen for was, to state his astonishment with reference to the particular part of the evidence to which the noble and learned lord had alluded, that no individual, even on the ministerial side of the House, and he in his conscience believed, that there were many individuals on that side of the House who agreed in opinion with him on the subject, had risen and proposed an immediate termination of the business. He would take the present opportunity of entering his solemn protest against any further proceeding, on three grounds, any one of which, if their lordships were really determined to do that substantial justice of which the country had heard so much, ought, in his opinion, to induce them to

put an extinguisher on the whole case. The first ground was, the difficulties which had been thrown in the way of her majesty's counsel following up the clue of the conspiracy which they had opened, and of the false witnesses called in support of that conspiracy. The second ground was, the abstraction of that important witness, Restelli. The third ground was, the impossibility of procuring the attendance of baron d'Ende; who would have been a most material witness for the defence. Any one of those grounds would alone be sufficient to justify an abandonment of the proceedings. The three taken together were, in his opinion, irresistible.

Marquis *Camden* concurred with the noble and learned lord on the woolsack, that under all the circumstances of the case, the House ought not to adjourn. He had thought it his duty, from his having had the honour to form an acquaintance with colonel Browne, to look carefully into all the evidence that affected his character; and having done this, though he thought it very hard upon colonel Browne to be denied an opportunity of vindicating his character before that assembly he could come to no other conclusion; and, in his judgment the House could pursue no other course, than that which had been recommended to them this day. He was the more confirmed in this opinion, as he understood, from what had passed in some of the discussions which had taken place, when several attacks were made on colonel Browne, that at some future time an inquiry could take place into the facts charged against that individual. For colonel Browne, he must say, that he knew him to be a gallant officer, and an honourable man. He had seen a great deal of service, had been 14 years a subaltern, and had been wounded in action not fewer than six or seven times.

Lord *Holland* thought nothing could be more clear than this, that the proceedings ought not to be suspended on account of colonel Browne. He must also say, that he could not consider it proper that their lordships' should enter into any discussion on colonel Browne's merits. Colonel Browne might be a very deserving officer; but if it were right for any noble lord to pronounce a long panegyric on his services, it might be permitted to another to state what he thought of the conduct of colonel Browne in certain transactions as they stood on their lordships' Journals. From indulging in any comments on the part which colonel Browne appeared to have acted, from the evidence given at their bar, he should for the present most carefully abstain; but he thought the friends of colonel Browne ought to be equally careful not to make him the subject of their panegyrics.

The question was then put and agreed to.

Counsel was accordingly called in; and the Counsel in support of the bill were informed by the lord chancellor, that the House does not think fit to grant the delay proposed, but that it is the opinion of the House that they should now proceed.

Then Captain *Thomas Briggs* was again called in, and further examined by Mr. Attorney-general as follows:

You have stated, that you commanded the Leviathan at the time that her royal highness was on board that ship? I have.

Do you remember lieutenant Hownam being on board that ship with her royal highness? I do.

You have stated, that Pergami also was on board that ship? I have.

Do you recollect having any conversation with lieutenant Hownam upon the subject of Pergami?

Mr. Brougham stated, that he felt himself entitled to object to this evidence, but that he waved the objection.

The question was proposed.

I do.

Was it a conversation about Pergami's being admitted to a seat at her royal highness's table? It was.

State what lieutenant Hownam stated to you upon that occasion? I observed to lieutenant Hownam in a conversation, that captain Pechell had told me that Pergami stood behind his chair when the princess was embarked on board the Clorinde frigate, and I asked how it was that he was now admitted to her royal highness's table? upon which he replied, that he was sorry it was so, he was sorry the princess had admitted him, that he had entreated her on his knees, and with tears in his eyes, not to admit him to her table, but to no purpose.

Did he state to you when this happened? No, he did not state the immediate time.

Do you recollect whether he said any thing upon that subject at that time? I understood—

Mr. Brougham objected to the answer.

What did he state? I recollect that he intimated to me—

Mr. Brougham objected to the answer.

To the best of your recollection what did he state? To the best of my recollection he told me it was the day in which the situation of Pergami was changed, that is to say, the very first day that Pergami dined with her royal highness at table.

Cross-examined by Mr. *Brougham.*

When did this conversation on board the Leviathan happen? It happened when the ship was on her voyage between Port Ferrajo and Palermo.

What year was that? In 1815.

What time of the year? The month of November.

Who was present at the same time? I do not recollect that any one was.

Try and recollect? We were in conversation together walking the deck, Mr. Hownam and I, as we occasionally did after I became acquainted with him.

You frequently used to walk with him on the deck, talking on various subjects? Occasionally, not very frequently.

It is not meant every half hour? No, not every day.

Occasionally? Yes.

You do not mean to represent this as the only conversation you had with lieutenant Hownam? No.

Neither before nor since? No.

Had you frequent conversations with him since that? Yes.

You have seen him since? Yes, he came down to me from Brandenburgh-house, and wanted to find out the nature of the testimony I meant to give here, on which I declined having any conversation with him on the subject; it was about seven in the morning he came to Portsmouth; on his taking his leave of me, he said, he should feel obliged if I would tell him whether any alterations had been made in the cabins of the Leviathan, for that he did not recollect that there had been any; upon which I expressed my surprise, and brought to his recollection that alterations had been made, and made in his presence; he took his leave.

In short he had forgotten the circumstance you are now mentioning? I presume so.

You mentioned something to him about captain Pechell and Pergami; captain Pechell had made some difficulties; had he not some objection to her royal highness having Pergami sit at table on board his ship? He positively would not sit down with Pergami; no objections to her royal highness at all, but to Pergami.

He positively refused to permit Pergami to sit down? I never heard him.

That was the subject of your conversation with lieutenant Hownam? No, the subject of my conversation with lieutenant Hownam was, that he had stood behind the chair.

Were you not talking, upon that occasion, with lieutenant Hownam, about the reason which had induced captain Pechell to refuse to allow Pergami to sit down at his table? No.

I understood you to say, you began by saying that captain Pechell had said to you that Pergami had stood behind his chair? Yes.

Did you not say so? Yes.

Therefore you were talking about captain Pechell and Pergami? We were.

And you were mentioning an observation captain Pechell had made to you about Pergami? I was.

And that observation operated as a reason why captain Pechell did not like Pergami to sit down at table with him, did it not? I cannot say it did, because it was long afterwards that captain Pechell objected to sitting down with him; it was not at that time, it was after captain Pechell met the princess the second time, which was at Messina.

Did you make any note of this conversation at the time it happened? None whatever.

And you are now speaking as to what you recollect at a distance of five years? I have a perfect recollection of that conversation.

When did you first repeat it again to any body? I believe I have mentioned it several times in conversation.

Do you recollect any one of the times? I recollect it was brought to my particular remembrance from a letter I received, desiring to know whether such conversation had taken place.

About what time was that? I suppose about seven or eight weeks ago.

While this proceeding was going on? Since the House met the first time.

When did you first mention it after that you say that brought it to your recollection? I wrote it in answer. I was called upon to say whether such conversation had happened, and I wrote that it had happened, that it was true.

You say that letter brought it to your recollection? I did not mean that; the fact was never absent from my recollection at all.

It was never absent from your recollection a moment? I remember the conversation perfectly well, and have always remembered it; and when I was written to, to know whether such a conversation had taken place, I answered it, saying it had.

You say it was always in your recollection; will you name any other person to whom you mentioned it before that letter was written, seven or eight weeks ago? I have mentioned it once or twice; I mentioned it on several occasions; I perhaps could name who were present when I have mentioned such a thing; I remember once having told sir George Cockburn it had happened.

You mean one of the lords of the Admiralty? Yes, that is some time ago.

How long ago? I am at a loss to say; but I dare say many months ago, as many as four or five; but I had mentioned it long before I knew I was to mention it in this House.

Sir George Cockburn had been asking you some question upon the subject, had he not? No.

You began the conversation? We were talking; I forget what led to my mentioning it; I remember the fact of my mentioning it to him; I declare I do not know what led to it.

You have had the honour of dining with the King lately, have you not? I have, when he was at Portsmouth.

Since you were last examined in this House? Since I was last examined in this House.

Re-examined by *Mr. Attorney General.*

Have you the command of the guardship at Portsmouth? I have, the Queen Charlotte.

And had at the time his majesty was there? I had.

Did you, when you dined with his majesty, dine in company with other officers who had paid their respects to his majesty at Portsmouth? Yes, all the navy who were at Portsmouth; every one of the captains, without exception.

Examined by the *Lords.*

Earl of *Morley.*—When the conversation took place between yourself and lieutenant Hownam, did any thing pass which indicated the period or place at which Pergami first dined with her royal highness? No.

Can you take upon yourself positively to swear, that the words spoken by lieutenant Hownam were, "I had gone down upon my knees to implore her royal highness so and so," and not the words, "I could have done so"? I understood him to have said, he had entreated her royal highness upon his knees, and with tears in his eyes.

Earl of *Darlington.*—You were understood to say, you had kept no memorandum of the conversation that passed at that period between you and lieutenant Hownam; you were also understood to say it was in the month of November in the year 1815, being now five years since the conversation passed; have the goodness to say whether you think that you can recollect private conversations that have passed five years since, common conversations between you and another? Generally speaking, I cannot; but I have a perfect remembrance of that, from the circumstance of having called his attention to what captain Pechell had told me.

Earl of *Morley.*—Did lieutenant Hownam or not state to you, that the first time at which Pergami dined at the table of her royal highnes, it arose from circumstances that occurred accidentally at the moment, or in consequence of the previous arrangement? I understood him to be giving an answer to a question I had asked him, and I understood it to have happened on the day the change took place from his being a servant to becoming a companion.

The Witness was directed to withdraw.

Mr. Attorney General stated, that as the case now stood, he should not trouble the House with any more witnesses.

Mr. *Brougham* stated, that it naturally arose for him to say, whether he had any evidence in rejoinder to give in this case, to rebut any thing which had now been proved, and that under the circumstances in which he was now placed, he had no evidence to tender.

The Duke of *Somerset* expressed a wish, before the counsel for the Queen summed-up, that he might be allowed to recall lieutenant Hownam.

The Earl of *Liverpool* said, that as this might be opening a wide field of inquiry, it would be well if the noble duke would state the reasons on which he grounded his proposition.

The Duke of *Somerset* said, that the purpose for which he wished Mr. Hownam to be recalled was, to examine him more particularly as to the incident of the tent on board the polacre. He thought that he might possibly be able to explain the arrangements in the interior of the tent, in a clearer manner than had been yet done.

The Earl of *Liverpool* said, he had not the slightest objection to lieut. Hownam's being recalled, nor would he now enter into any argument with reference to the right of noble lords to recall him. He wished, however, to call their attention to what this new re-examination must naturally lead. If one witness were recalled, to state more particularly any minor facts, all the witnesses might be recalled for the same purpose; and yet, if they were all to be recalled, their authority would be no greater than it was before. He begged leave, therefore, to suggest to the noble duke that it would be better, both for the sake of convenience and of regularity, that the examinations which had been closed, should rest where they did at present.

The Marquis of *Lansdown* perfectly concurred in the observations of lord Liverpool. If the proposed course were to be pursued, every witness might be recalled who had not clearly and conclusively established any particular fact to which he had been interrogated. He was sure the noble duke would abstain from a course which might be productive of such inconvenience.

The Duke of *Somerset* did not wish to

occupy the time of the House unnecessarily, but on the points which he had mentioned, it appeared to him that the evidence of lieutenant Hownam was not sufficiently clear. In consequence, however, of what had fallen from the two noble lords who had preceded him, he had no objection to withdraw his motion.

Earl *Grosvenor*, for the same prudential reasons, declined making a similar application for the like object.

Cries of "Go on, go on", proceeded from various parts of the House.

The *Lord Chancellor* asked, whether her majesty's counsel were ready to proceed in summing up the case?

Mr. *Brougham* answered, that he understood from his learned friend, Mr. Denman, that he was now ready to proceed, in order to save the time of their lordships.

SUMMING UP.

Mr. *Denman* then proceeded to sum up the Evidence on behalf of her majesty, as follows:—

My lords; under any circumstances in which it would have been possible for any advocate to be called upon to discharge that solemn duty which is now imposed upon me, I am sure it would have been quite unnecessary to request the merciful indulgence of the House to the individual who was to address them; but perhaps, my lords, there is something in the peculiar circumstances under which I now come forward, which may make it the more fit and the more necessary, that I should receive an ample portion of that indulgence of which I am extremely sensible that I stand in the greatest need. For, certainly, after the application made yesterday, and after the wish expressed by my learned friend, the attorney-general, to postpone the evidence that he professed himself to have to call in contradiction to ours, until your lordships had decided, whether colonel Browne should be called or not, it would not have been unnatural to expect, that besides the solitary witness who has stood before your lordships to-day, there might have been a considerable mass of evidence to contend with—a considerable number of contradictions to consider; particularly when your lordships recollect, that almost the whole course of the cross-examination that has been applied to our witnesses, has pointed at such contradictions as directed our attention to the probability of adverse evidence being called, and therefore has kept our attention in some degree suspended, without that direct correspondence with the case proved upon the other side, which it would have been so extremely desirable to have had, before I had been called upon to sum up the whole of the evidence. My lords, I make no complaint upon this subject: considering the time that has elapsed, both in the proof against her majesty and since that proof was closed, and during the time that our own case has been going forward, I should have been extremely deficient in my duty to my illustrious client, if I had not paid the most constant and the most painful attention to the whole of that evidence. I therefore, with your lordships permission, without further preface, will proceed to make those observations upon the case, as it now lies before you, which have satisfied my own mind, which have satisfied the minds of all my learned friends, which have satisfied, I think I may say, the minds of the whole public, of the whole people of England, of all the civilized nations of the world, who are anxiously looking on, to see this great and unexampled spectacle brought to a conclusion, that her majesty the Queen has established a defence, which entitles her to a complete acquittal of all those charges which your lordships have permitted yourselves to try against the conduct of that illustrious individual.

My lords; I wish to proceed to this great inquiry with all that calmness and that deliberation and that absence of passion and of violence, which will lead to the complete investigation of truth; but it would be impossible to conceal, that during the course of those interlocutory contests which have existed between us, and in all that has passed in the course of these debates, there may perhaps have been a tone and a temper, for which some degree of apology may be required—but which, I trust, will be found to require no other apology, than the enormous magnitude of the case, the dreadful consequences which it involves both to the individual and to the country, and the deep anxiety with which any advocate must feel himself almost overwhelmed, when he addresses himself to such considerations. My lords, we have been charged with making use of invective and declamation, calculated to captivate out of doors, and not to impress your lordships minds. I

beg leave to say, in the first place, with respect to my learned friend, the attorney-general, who has sometimes felt as if we were bearing personally hard upon him—I beg leave most sincerely to disclaim all such intentions—I beg to disclaim every thing like an imputation upon his personal character or his honour. And, if I collected correctly what fell from him yesterday upon the subject, I almost imagined, that he thought that I could be questioning his veracity in what has passed upon this proceeding: I beg leave to say, that if any thing has fallen from me which could, by any possibility, bear such a supposition, or that if any man can suppose that to be my design, I most unequivocally retract it in the face of this assembly, and most sincerely express my regret, that any mistaken language of mine should have led to any such suspicion in any quarter. My lords, it has not been my object to give uneasiness; but I have felt it deeply. And it is impossible for any mind which comes with the right feelings of a man to the contemplation of this case, not to ask for the fullest indulgence for any thing that may have passed upon such an occasion; because it is impossible not to feel, that the illustrious client whose immediate interests are confided to our care, has been, perhaps I might say from the first moment that she placed her foot in this country to the hour at which I am now addressing your lordships, the victim of the most cruel oppression, and the most dreadful and irreparable wrong. My lords, that galling and degrading sensation has attended us through the whole of these proceedings: it must plead our excuse for any thing that may have been wrong and disrespectful in our manner. I trust I have said enough upon the subject; and I proceed to that case which it is my duty to observe upon.

But, my lords, while I have disclaimed, in the fullest terms, any thing which can appear like a personal imputation on my learned friend, I claim at the same time, in the amplest manner, a right to observe upon his whole conduct as an advocate in this proceeding; because, from the conduct of the advocate, we collect not only the whole impression upon his own mind, of the case he has to bring forward and the proofs he has to adduce, but we see something of the nature of the instructions under which he has acted, and much of the spirit of the prosecution which, I unfeignedly say, it is my learned friend's misfortune to conduct—a misfortune, for which no honours can possibly compensate him—a misfortune, which I see has, in a great measure, weighed him down in the course of these proceedings, and for which I certainly, for my own part, will say, that nothing should induce me to purchase such an office, with reference to any objects of human ambition — I speak of the office that is now imposed upon him, in prosecuting this Bill of Pains and Penalties, of divorce, degradation, and dethronement, against the wife of the present king of England.

My lords; in order to see what is the Proof brought forward in support of this bill, and how it applies, it is necessary to look back to the Charges which are brought against this illustrious individual. I shall therefore once more refer to the mode in which our Indictment is drawn up. It states, that her majesty, "while at Milan, in Italy, had engaged in her service, an individual, in a menial capacity; and that, while in that situation, a most unbecoming and degrading intimacy soon commenced between her royal highness and that individual; that he was not only advanced to a high situation in her royal highness's household, but that he was received by her royal highness with great and extraordinary marks of favour and distinction; and that she, unmindful of her exalted rank and station, and wholly regardless of her own honour and character, had conducted herself towards him, both in public and private, in the various places and countries which she visited, with indecent and offensive familiarity and freedom; and finally, that she carried on a licentious, disgraceful, and adulterous intercourse with the said Pergami, by which conduct of her royal highness, great scandal and dishonour have been brought upon his majesty's family, and upon this kingdom." — I am aware, my lords, that you are now upon the second reading of the bill, and that the single question that I am at liberty to discuss—certainly not binding your lordships to that question alone—is, the proof of these allegations, and the question of the nature of the evidence by which they have been established. Now, my lords, in the first place it is stated—(and every part of this is in some degree material, because the whole of the preamble goes to make out that complicated case which is complained of)—it is stated, and it is

true, that this person was received into her royal highness's service in what may be called a menial capacity, and that he was promoted—it is true, that he received great marks of favour, and that several of his relations were received into the service of her royal highness. But then I really do think, that upon this clause, of which so much is said in the bill, where we are told of the orders of knighthood and titles of honour which were conferred upon him, through the agency of her royal highness, it would have been but fit and proper, that some evidence should have been given, that those titles were obtained by her royal highness. All that we hear upon the subject is, that at one period Bergami was without those titles, and that at another period he received them. I cannot tell why this should not be the subject of proof, as distinct as any other part of the bill; but there is no evidence upon this subject, except the fact, that she did, of her own authority, confer upon him a pretended order of Knighthood, which her royal highness had taken upon herself to institute, without any just or lawful authority. Now, my lords, I think we might have heard a little about the authority of royal personages to institute orders of knighthood; because, in the little inquiry that I have been able to make upon that subject, I do not find, that it is the exclusive privilege of reigning princes, but, on the contrary, that several orders have been established — many by persons of rank in France who possessed no sovereignties at all, and one by three brothers, I think three Italian merchants who were brothers, and who established an order of knighthood of their own, of which I do not at this moment recollect the name, but all this goes to show, that there is nothing to exclude persons, although not filling the throne at the moment, from instituting those orders of knighthood. My lords, I treat this part of the accusation with some degree of seriousness, because it is so treated in the preamble of the bill. This is one of the acts complained of as an invasion of the royal authority; but when an European princess goes, for the first time in six centuries, to visit the Holy Sepulchre, it does appear to me there is no great offence committed, if she, pleased with the enterprise she has undertaken, delighted with the novelty of the scene and the extraordinary circumstances under which she is placed, has taken upon herself to do what dukes of Orleans and dukes of Bourbon have done in former times — that is, to establish an order of knighthood for those who had attended her upon that occasion; and I can hardly suppose that this is to be pressed with any great degree of severity, though it is the charge against her majesty the most satisfactorily proved. I think lord Bacon says, that "princes make to themselves desires, and make to their hearts toys, sometimes in erecting a building, and sometimes in making to themselves an order." This illustrious lady, my client, made improvements, and added an additional wing, to the Villa d'Este, which improvements are understood to be in the most correct taste, and cannot form any subject of complaint against her, how much soever they may differ from some of those buildings which have been recently erected in this country. And with regard to the order which she is proved to have appointed, I do hope that that is regarded as a mode of swelling the charge against her majesty which ought not to be received with seriousness in this House, although it is stated in the preamble of this bill as one of the grounds of complaint against her.

Then, my lords, in regard to what follows, as to the indecent familiarities and adulterous intercourse, I think I may remark, that the real question to be tried before your lordships is, whether this adulterous intercourse has in fact taken place, and whether it has taken place in such a manner as to bring scandal, dishonour, and disgrace upon his majesty, and the character of the people of England. My lords, we certainly approach this subject under as many disadvantages as any defendant was ever oppressed with. Until the hour of trial, we had been left in utter darkness as to all the particulars of the charge against us. The opening of my learned friend, the attorney-general, is the first indictment, as it were, that is preferred against us; it is there that we are to look for that specification of the charges which was before refused us—not for a specification of the witnesses, for I think he named none—but for the specification of those charges which he undertook to make out in order, and to which our defence was to be applied. I refer, therefore, to the speech of my learned friend the attorney-general, as that case which we are to answer; and the only mode in which I can go through the answer to the case, is, by observing

upon every one of the statements that he made to your lordships, and the mode in which he supported those statements by the witnesses who have appeared at your bar.

Now, my lords, the first statement—what I would venture to call the first count, or rather a statement of the first overt act in this charge of high treason—is what happened at Naples on the night of the Opera. And, most undoubtedly, there never was a series of facts opened by a counsel in a court of justice more likely to make a deep impression upon the minds of his hearers than the facts that were opened by my learned friend; not only as making it almost undeniably clear, that there was an adulterous intercourse on the night in question, but also as shedding a colour over the whole of the case that was to follow, and as giving a character to every part of the transactions which afterwards passed between the individuals charged. For what was my learned friend's statement? He says, that upon former occasions the individual who is supposed to be the paramour of her royal highness had been accustomed to sleep at a distance from her room, and that he was, on that particular evening, by her royal highness's express desire, removed to a room very near her; that the boy, Austin, who had constantly slept in her room, was then, by her express desire, also separated from her. She returned, it is said, at an early hour from the Opera. Her maid, who happened to be present, detected her in a state of the greatest agitation; she saw her go to the room where she knew that this person was; and the next morning, it is said to have been discovered, that her royal highness had not occupied her own bed, and that the other bed had decisive marks of two persons having slept in it. It is added, that, on the following morning, her majesty was not visible at the usual hour; that she remained in her apartments locked up with this man to a late period of the day, and that several persons of rank who called upon her, were refused admittance to her presence. Then, as a consequence which follows upon all these facts, and which certainly is a most natural one, the conduct of this individual is supposed to have become suddenly insolent and overbearing towards his fellow servants, and impudently and improperly familiar towards the mistress with whom he is supposed to have been so connected. Such is the charge that was opened by my learned friend; and such are the facts from which, if they had been proved in evidence, I feel that only one conclusion could have been drawn. But, my lords, if it shall appear, upon looking narrowly at what has been proved and sworn, that no one of those important facts that can be contradicted is in fact true—if it shall be proved, that instead of her royal highness ordering the change of rooms, that was done by the master of her household, of his own authority, without her knowledge or consent, and to remedy the inconvenience that had resulted from the bustle of a new arrival on a former night—if it shall appear, that it was considered unsafe for her royal highness to sleep so near the garden without a man in that cabinet, and that consequently Sicard was the person who there allotted the bed for Bergami—if it should further appear, that so far from constantly sleeping in the room of her royal highness, and so far from the removal of that boy being a pretence for the purpose of indulging in licentious passion, her chamberlain had long before remonstrated against the propriety of his being allowed to remain so near her at night, the age of the boy being, not six or seven, as stated by the Attorney-general, but thirteen or fourteen—and if it shall appear, that in consequence of that remonstrance, a change had taken place before her royal highness's arrival at Naples—if it shall appear, that so far from returning early home from the Opera, that night she remained unusually late; that Demont, instead of being there, was actually sent for to witness this supposed detection—if, instead of going secretly home, she was attended to the door of her room by her chamberlain, sir William Gell—and if, instead of being locked up with this courier, as is falsely said, to a late hour, she came down the next morning at her usual hour, according to the evidence of witnesses called to condemn her—if there is a total want of proof, that Bergami was missed at breakfast that morning, or was noticed for any thing particular by any of the witnesses on either side—and if it shall further appear, that no persons of rank were refused admittance, and that nothing took place to mark the conduct of either of those parties—then, my lords, I say, have I not a right to ask, that the single witness who is discredited by those numerous contradictions, with regard to all the nu-

merous facts to which she can be contradicted — is it too much to ask, that her testimony should be doubted at least, if not intirely disbelieved, as to the two or three facts which rest upon her evidence alone, and admit of no further inquiry? For she says, that her royal highness's manner was agitated. Now, in the first place, there can be nothing more vague than that description; but, in the next place, are we to trust to the observation of one who has stated so falsely all the facts that accompanied this supposed agitation? Then, as to her going towards the room, that also rests on Demont alone; and as to the state of the beds, I submit to your lordships that the mode in which that fact is disproved, is sufficient to discredit the witness altogether.

My lords; it is my particular anxiety, even at the hazard of being extremely tedious, which I fear I must be to your lordships, to be perfectly accurate in every statement that I shall make, I therefore beg leave to refer your lordships, distinctly, and point by point, to the evidence which proves that all those allegations are false. If, through error, I should make one single mistake in the evidence that I bring before your lordships, I shall take it as a most serious favour, to be corrected, either by any one of your lordships who may detect such error, or by my learned friends, who, of course, will watch the statement that is made. The object is, my lords, not now to deal in general observations; it is not now to get rid of the effect of things by showing how improbable, how incredible, how impossible, they are; but the object is, to show distinctly, that, by reference to the evidence itself, and upon every fair consideration that it can receive from any impartial mind, not only is that important case of the Opera night at Naples not proved in the sense in which it was opened by my learned friend, but that it is expressly negatived in many points by his own single witness, and in many more points by those whom we have been able to call before you. Therefore I will take the liberty of stating, that the evidence of Sicard at page 566, and page 593,* of the printed Minutes, goes to negative the fact of her majesty having made the change in those rooms; that page 594 will show that it was his act to put Bergami to sleep in that apartment and not the act of her majesty, for the reason that he gives, namely, that she required a guard. The evidence of Mr. Craven, in pages 537 and 543, that William Austin had been represented to her majesty as unfit to continue longer in her room, and that he had actually, on some occasions in Germany, slept out of it. You will find it sworn, in page 700, by Carrington the witness, that he made a bed for Austin in another room of the inn than that of the princess, whenever the rooms gave him an opportunity of so doing, before he came to Naples. You will find, on the evidence of Mr. Craven and sir William Gell, in pages 535 and 551, that these gentlemen remained at the Opera unusually late with her majesty, and for reasons which cannot be supposed to be incorrect. You will find on the evidence of Demont herself, in page 249, that she was not there by accident, but was actually sent for, to witness all which can be supposed in that scene. You will find, in the following page, that her royal highness did leave her apartments in the morning at her usual time. You will find in sir William Gell's evidence at page 560, that he actually attended her royal highness to the door of her bed-room. Then, my lords, there is an absence of all proof, either that Bergami was missed at breakfast, or that any thing of that sort occurred to make it probable, that he was locked up with her majesty: and with regard to what follows, his supposed difference of conduct, his supposed assumption of consequence, from the favour to which he had been admitted, I adopt, in the fullest terms the observations of my learned friends—most undoubtedly that would have been the necessary consequence of the sort of intercourse that is imputed to have taken place. But, there is scarcely a page of the whole evidence that we have called on the part of her majesty, that does not go to negative the necessary inference from the supposed connection. My lords, if that individual had been indeed called to the embraces of his royal mistress, it is quite impossible that his manners should not have betrayed him; but we find, on the contrary, that from the first to the last moment of his being in her house, he conducted himself as a respectable servant to a mistress, kind and affable it is true, but who, in her affability, never lost sight of her dignity; that, from first to last, he was performing the duties

* See p. 364, and p. 405, of the present volume.

of the station in which he was placed, first, in the humble situation of a courier, and next in that very confidential one to which he was afterwards raised. Much commentary and much criticism have been attempted upon the supposed manners of this individual; but I think the answer Mr. Keppel Craven gave, was quite satisfactory upon that point. I believe it was not taken down, but I heard it and it appeared to go to the whole history of that part of the case—"Were his manners the manners of a gentleman?" "I do not know what can be meant by the manners of a gentleman in the station of a courier: as a courier he conducted himself perfectly well, and when I afterwards met him at the table of her royal highness he conducted himself in the same manner"—always attentive, always respectful, always consistent with the distance of rank between those two individuals; but which had, according to my learned friend, the attorney-general, been effectually broken down and could never be repaired, if it was indeed true, that an adulterous intercourse had taken place on that night at Naples.

Now, my lords, as to the state of the beds, of which we have heard so much. At page 253, you will find it stated by Demont, that no person had slept in the little travelling bed, but that the great bed by the side of it had been extremely deranged and appeared to be very much tumbled in the following morning. Now, my lords, supposing that any intercourse took place between the parties on that night, one is a little curious, to know where her royal highness could have slept. It can hardly be supposed that she remained on the counterpane of the larger bed the whole of the night. It appears difficult to conceive that there should not have been some opportunity of repose taken. And, then, why not in that little bed? It could not avoid being disturbed, if that was so; but, supposing there was any improper connection between the parties taking place, it is utterly impossible that that precaution should not have been taken for the purpose of veiling that connection. And when this chamber-maid states, that, for two whole months, the little bed never exhibited any appearance of being slept in, she states that which must on the face of it, be false; for it is utterly impossible that any woman, fogetting her virtue, but still having some regard for her reputation, should have avoided taking that precaution, to divert the attention of those in attendance upon her. If that was the case, Demont was actually in the secret. I say upon all possible probabilities, that fact is false, and that she who has been so contradicted in every other fact which goes to the making up of this case, is contradicted in the nature of the circumstances, in regard to this small bed, in which her majesty had been in the habit of sleeping before.

But, my lords, we have a little more as we advance: and when my learned friend, Mr. Williams, with the great ability he discovered, pressed her further upon the subject of the state in which this bed was found, then it was, indeed, that she held the very same language; adding only, that there was a pressure in the middle of the bed, but nothing beyond derangement, and that there was nothing, as far as appeared, that indicated any criminal connection. Why, my lords, it is utterly impossible but that my learned friends must have been instructed by this witness, as to what she was capable of proving upon this subject. Now, she does not state, in the first instance, any thing like a proof of a sexual connection having taken place upon the bed; and when my learned friends apologize for her not having done so in the first instance, in consequence of the difficulties imposed upon them by the rules of examination in chief, it is ludicrous to hear men of their station and ability setting up such a case at all. What! is there no means of setting up a case in chief? To suppose that they were not furnished with the important fact, if Demont would have sworn it, is perfectly inconsistent with all we know of the history of the human mind. But, on the third or fourth day of her examination when a noble lord puts that question to her distinctly, as to the state of the beds, having considered probably the glory acquired by Kress by that modest piece of evidence given at your lordships bar, on which I shall not fail to observe, stung to resentment by the recollection of the cross-examination, or induced by the hope of reward, she stated to your lordships a fact which I am sure you every one disbelieved; for then she introduces those stains upon the outer covering of the bed, which would convert a doubtful and suspicious appearance into a clear and deliberate crime—at the same time adding by way of cover for her modesty, that she did not know what they were,

that she had never seen any thing of the sort before. However, she came then to state, what it would have been her duty to have stated in the outset, and what my learned friends would have had no more difficulty to have got her to state, if the facts had been true, than they had in getting out the insignificant facts. Then, for the first time, she thinks fit to fix her mistress with the clear proof of crime, which she had not sworn to before. It is in page 362 of the Minutes, that this extraordinary statement appears.*

My lords; supposing that Demont's evidence was as clear and unsuspicious in its manner as it is the contrary, still I say, that when a witness deposes to facts which, if they existed, could be only in her own knowledge, and is contradicted by facts in the knowledge of other females, it would be most preposterous for any court of justice to give belief to any of the facts proved by that witness in the first instance, or which she may afterwards bring forward for the support of any case. My lords, I do think there never was an opening made by any counsel in any court of justice, in which the evidence so completely proved the contrary in the course of his own case, and was so completely disproved by the adverse proof. But then, let us consider what is the effect of destroying this Naples case. My lords, the suspicions which have arisen in your lordships minds may be traced to a variety of sources. The numerous circumstances which have been opened by my learned friends, the numerous facts they have undertaken to prove, the numerous witnesses who have sworn to disgraceful and degrading facts — all these things, taken together, have produced that impression which it is impossible not to have seen existing in your lordships minds. After that case was proved, it had no less than three weeks to make its deep impression, and that impression it is which alone I dread; but that impression I am sure your lordships candid consideration of the complete disproof of the important circumstances against us will at length effectually remove.

My lords; in a publication to which I have accidentally referred — the Quarterly Review just published — I find such an admirable observation upon this subject, that I must beg leave to quote it —

"It requires more time and cost to repair an edifice, than to damage it; and certainly more zeal to defend the calumniated, than care to raise the calumny. An attack, if it deserves notice, is necessarily lively, and our attention is roused by that air of novelty it carries with it; but a defence can only boast the honest intention of carrying us back to the same place we had formerly occupied; and nothing short of a miraculous demonstration will so completely eradicate a false or an aggravated charge, as to leave no traces of it behind in the minds of those who have long received the erroneous impressions."

My lords; it is unfortunately too true; and in a case where female honour is concerned, the very existence of the charge is, in some degree, as great a punishment as if it was distinctly proved instead of being contradicted. The old adage, "*Calumniando semper aliquid erat*" was never more distinctly made out, than in this present case. The evidence of the infamous and diabolical persons brought forward against her majesty has had its effect; and although it has been disproved, I flatter myself, in a manner so satisfactory that no reasonable mind can believe any one of the particular charges adduced, still, the very unfortunate fact of their having existed, will leave punishment, will leave suffering, which no time, no reparation, will ever be able to remove.

My lords; the case at Naples, to which I have already referred, and which is supposed to be the root of all the evil that followed, was thus summed up by my learned friend, the solicitor-general — "Upon the following morning, after she was dressed, she retired into the small cabinet, and remained there for the period of an hour and a half." * My lords, of that fact I just observe, in passing, that there is no proof whatever. My lords, in the summing-up there was also this expression, "No man who hears me, can, fairly exercising his understanding, entertain a doubt as to the fact of adultery; that adultery was committed on that night; and that this was the commencement of an adulterous intercouse between the parties." † Now, my lords, I do feel that it is impossible to replace me on the ground which I formerly occupied. Although this story is more

* See Vol. 2, p. 1211.

* See Vol. 2, p. 1351.

† Ibid. p. 1349.

completely refuted than any story ever brought to impose upon a court of justice, yet the impression in some degree, remains; and when I see the effect of minds labouring under their fresh impressions, dwelling upon that faith which has been built upon a series of circumstances, all but one of which is disproved, but the want of disproof of that one still appearing to sanction the faith so improperly excited — I feel the utmost horror at the effect existing in your lordships minds, even from that story which, I flatter myself, is entirely disbelieved by you.

My lords; there are other charges to which I shall now refer; and the second count, as I shall call it, is what passed at the masked ball when the king of Naples was entertained by her royal highness. Here, also, is a statement raising a presumption of guilt. "Her royal highness," says my learned friend, the attorney-general, "retired into a room with Bergami alone, for three quarters of an hour, while her dress was changed, keeping her maid in the anti-room, which dress was most disgusting. She afterwards attired herself in the dress of a Turkish peasant, and Bergami, attired in a similar dress, accompanied her majesty in that disguise to this entertainment; but he did not remain long at this place; he returned alone, apparently mortified from some circumstance which probably had occurred at that entertainment. Her majesty returned, and pressed him to go again with her; but he declined. Her majesty was much disappointed at this, and returned alone to the ball." * My lords, was there ever any thing more effectually disproved than this? In the first place, it is utterly incredible that this illustrious lady, if she had wished to retire from that ball, could have done so without being missed by all the company; it could have been proved by every one present. But, if she had wished to retire with her chamberlain for three quarters of an hour for criminal purposes, is it to be believed she would take her chamber-maid with her to the door, keeping her in an anti-room, to witness the fact of her so retiring? We cannot disprove that Demont went up stairs with her royal highness, and that her royal highness went into the room with Bergami, because Demont states, that nobody else was there. It was utterly impossible for us to enter into a dispute upon that subject; because she is the only person who states this. If her story is true, there is nobody to confirm it; and if it is false, there is nobody to contradict her. And yet we are told, on the other side, "then why do not you cross-examine the witnesses more; why do not you enter into particulars which will enable you to show, either that the facts stated by them were false, or that there are other facts which render the matter innocent?" My lords, can any thing be more unreasonable than such a call? We say, and we prove, that she is a witness who comes to state that which is untrue. Are we to ask her to more facts? We know she has come here to deceive us; and the more we inquire of her, the more we shall be deceived; unless indeed — which is not to be supposed after three years rehearsal — we shall find her so bungling in her story as to forget the facts.

My lords; I remember having a dispute with a gentleman, who related to me an anecdote. I said, "the fact is not so, and I have good authority for saying so." —"Yes," says he, "I know your authority; I told that gentleman, and I made the story myself, therefore it is clear I have the best authority;"—and it turned out, that he himself was the framer of the anecdote. And so is Demont the framer of this story; and as it is utterly impossible to trace it higher than the fountain-head, so the more we asked her questions as to the nature of her conduct and her evidence, the more facts she would have heaped upon us, in the ardour of her invention, to disgrace her royal mistress. But, my lords, it happens, that she is contradicted here in almost every essential point; for sir William Gell, in page 562,* "I believe she had a very great number of attendants;"—which is the probability of the case. Mr. Craven says, at page 536†, and sir William Gell at page 552†, that so far from being indecent or disgusting, the dress of her royal highness was extremely proper and modest. So far from any improper inference being drawn from her royal highness and Bergami wearing the same dress of Turkish peasants, it is proved, at p. 571,‡ that all the other domestics formed a group in

* See Vol. 2, p. 749.

* See p. 363 of the present Volume.
† Ibid, p. 333, and p. 347.
‡ Ibid, p. 406.

the same dress; and so far from Bergami retiring apparently mortified, of which no sort of evidence was offered, though the solicitor-general made it one of the topics of his summing-up, it is proved by Mr. Craven's servant, that he was walking about for his amusement through the rooms, and that he was seen serving refreshments, the same as the rest of the servants.* It is at page 255, that that supposed fact of Bergami retiring with mortification ought to have been proved, if at all; but there is not a particle of evidence of that kind. Then, as a last resource, it was attempted to show, that, as a Turkish peasant, her royal highness had dressed herself in a manner not consistent with female delicacy, for that she had worn trowsers. Sir William Gell states how that was; that it was a simple petticoat, with a stitch through the middle, which did not make it approach in the least to indelicacy.†

My lords; there is another point, not expressly made a charge by my learned friend, but which goes to show the nature of the evidence brought against us; and that is the supposed walking arm in arm, in the garden at Naples, with a person in the situation of courier. What is the fact? In the first place, they endeavour to make it out by Majoochi.—He, at page 7,‡ says, that though it was Bergami's duty to keep the key of the garden, he never saw him and the princess walking in it at all. Demont, at page 255, is asked upon the same subject, and the answer she gives is, "I saw her once walking upon the terrace with monsieur Bergami;"—and being desired to describe how they were walking, she says, "The princess was under the arm of Pergami.§" So that the whole of this frequently walking in the garden, resolves itself into this —that he was once seen walking with her in the garden, and that they were arm in arm together. This is a most important observation; because it proves, that we have to deal with a witness who not only is capable of telling direct falsehoods for the purpose of blackening that character to which she has paid a homage, which she would be glad now to unsay, but that her principal artifice has been, to engraft falsehood upon truth, and to give to it a character which it has not. That is the most dangerous adversary with whom an individual can have to contend; and that is proved to be the character of Demont in every page of her testimony; but in no one more than in this; for it was she that has placed them arm in arm. The fact is, they were together in the garden, when there was some work to be done, or some trees to be planted. Her majesty was walking with Bergami in the garden when there were some Italian servants at work, with whom she could not communicate, and wanted the aid of an interpreter. But you have Mr. Craven and sir William Gell stating, that she once walked in the garden, and that one of them, Mr. Craven, thought it his duty to state to her royal highness, that she was doing that which was imprudent, because he understood there was a person sent as a spy upon the princess, and disposed to put the worst construction on the most innocent acts of her life. Mr. Craven's evidence will be found at page 540, and sir William Gell's at pages 557 and 562,* and your lordships will find this important fact stated by sir William Gell, that the view of the terrace on which the Queen and Bergami were once seen walking, could be seen from every one of the surrounding houses. So that this supposed escape of two lovers into a garden for criminal purposes, turns out to be the walking of a lady in her garden, in the face of day, under the observation of numerous persons, and with an attendant for the purpose of giving directions in Italian to those labourers with whom she was unable to converse. Now, is it possible, my lords, for any incident to be more free from guilt? And yet this is one of the circumstances which this artful chambermaid has prevailed upon the attorney-general to bring before your lordships, as proof of guilt between the princess of Wales and her courier, when at Naples.

My lords; my learned friend, the attorney-general, has told us frequently, in the course of this discussion, that he, indeed, has no particular anxiety upon this subject—that he has no personal interest to serve in bringing forward this case—that he attends by your lordships' command, and as the minister of substantial justice. I think, however, that my learned friend soon felt, in the course of this proceeding, that substantial justice was not to be attained, without the manly contention of adverse parties; and he assum-

* See p. 384 of the present Volume.
† Ibid, p. 363. ‡ See Vol. 2, p. 808.
§ Ibid, p. 1118.

* See pages 342, 353, and 363, of the present Volume.

ed, in the outset of the proceeding, that plain, intelligible attitude of contest which one likes to meet with, which one knows how to deal with, and which does honour to the individual who carries it through with skill, dexterity, and boldness. More skill and dexterity than have been witnessed in this case I have never witnessed. The most starving attorney who, for the sake of his miserable costs, brings the most paltry and most pitiful action to the consideration of an indignant jury for an assault and battery, never yet obtained a counsel who carried through his case with so much skill, so much dexterity, so much management and manœuvring, as have been displayed on the part of the Crown, in this greatest of all criminal prosecutions. I do not complain of it on the part of my learned friend, the attorney-general. I think that if the case is bad, the counsel who undertakes it has no choice. I impute it to his instructors and his clients, and not to him. I impute it to those false witnesses who have deceived himself and his instructors. They have left him no course but that indirect course of management and skill, which, I say, we shall be able to show in every stage of this extraordinary case. But when my learned friend, the solicitor-general, came to state the case to you, he, indeed, put it on rather a different footing; and when we thought we had been engaged in an equal struggle with antagonists at the bar, we then first discovered that they had been acting with all the dignified impartiality of judges—that they had begun their case with summing up what they should prove, and that they had closed it with summing up, not as advocates to impress the minds of your lordships, but as judges instructing a jury as to the propriety of the verdict they ought to give, upon the facts proved. And my learned friend, the solicitor-general, who takes such peculiar credit to himself for having called all the witnesses—every part of the evidence—which they thought material to this point of the inquiry—without regard to the influence or impression it might make, says—"We thought it our duty fully, fairly, and candidly, to present it to your lordships. I trust, that in pursuing this course, we have faithfully discharged the duty that your lordships imposed upon us. We felt we were not to make ourselves parties in this inquiry; we were acting under your lordships' directions; and we have pursued that course which I have stated, honestly, faithfully, and fairly to the best of our judgment and our ability.*" Now, my lords, we are placed, I confess, in two very different situations, with regard to my two learned friends. Certainly, there is a considerable difference between an eager advocate on the one hand, and an impartial judge on the other. As I suppose we are to consider, that on Mondays, Wednesdays and Fridays, they assumed one character, and on the other days of the week we are to meet them in the other, I do not know how the evidence will bear that out. My learned friend, the solicitor-general, after having stated that in which it is impossible to contradict him—after having thrown out every species of defiance to us, and stating, that those witnesses which we may be bold enough to call in our defence can do us no good, concludes with a sincere and fervent prayer—not only sincere, but which comes "from the bottom of his heart"—that her majesty may be able to establish her full and entire innocence. My lords, it is gratifying to hear that prayer so breathed, I believe it is the first that has been breathed for her majesty by any public officer who happens to be in the service of the government. I trust it is a happy omen; and I hope the granting of this prayer, which my learned friend must have perceived with much joy, as the case has gone forward, will be the first step to restoring her majesty's name to the public offices of the Church, from which it has been so improperly and so illegally removed. It is therefore necessary to deal in a different way with the observations of one who is so devoutly anxious to see her majesty acquitted, from those which may proceed from any other quarter; and consequently I think I ought not to leave this part of the subject without congratulating my learned friend, that the witnesses have so completely failed in making out the case which they were called upon to prove—in the words of Cicero, when speaking, not of a witness, but of another person,—"Nequa calumnia, nequa fraus, nequis dolus adhibeatur."—Your lordships have seen those witnesses, you have heard them—you have heard their testimony,—you have seen their countenances. For the last time, you have looked at that Demont, whom I take to be the origin of all this mischief—whose de-

* See Vol. 2, p. 1345.

clarations put her out of the case as a witness, and make it imperative on your lordships to look to the other parts, as if she had never had the impudence to come here, and depose to the falsehoods to which she has deposed.

But, my lords, the third case—the third count of this indictment—was not opened by my learned friend the attorney-general; but was thrown into the bargain by Demont, and opened, therefore, by my learned friend, the solicitor-general, with a great deal of pomp and ceremony. It seems, that Demont has thought proper to state, that at one time, when leaving the door of the princess, she saw Bergami come out of his room, and come into the passage. It is of the highest importance that your lordships should see how that is proved. At page 251 of the Minutes, there is this statement:

"Do you remember ever seeing Pergami at night in the passage of which you have made mention? I do.

"Where was her royal highness at that time? In her bed-room.

"Was she dressed or undressed, or in what state? She was undressed.

"Where were you standing? I was near to the door of her royal highness.

"Where did you see Pergami? I saw Pergami come out of his room, and come into the passage.

"In what direction; towards the princess's room, or how? He was going towards the bed-room of her royal highness.

"What was the state of Pergami's dress at the time you saw him going towards the bed-room of her royal highness? He was not dressed.

"When you say he was not dressed, what do you mean? what had he on? He was not dressed at all.

"Do you remember what he had on his feet? Slippers.

"Do you remember whether he had any stockings on? I saw no stockings.

"Had he any thing on more than his shirt? Nothing else.

"You have said that the princess at that time was undressed; had she got into bed or not? She was not in bed.

"When you saw Pergami coming along the passage in the direction of her royal highness's room in the manner you have described, what did you do? I escaped, by the little door which was near me, out of the apartment of the princess."*

This was the account, my lords, given by Demont; but my learned friend's cross-examination, at page 317, drew out this further fact from her, that in making this escape, it was necessary for her to approach nearer to the individual who was coming towards her—that instead of running further from, she came towards him, and then went out at a small door which went up a stair-case.* She never went back to see what became of him; and so put a negative upon the case. The answer is that just read to your lordships; and I submit, that supposing it to be all true, it is just as much a case to prove adultery between Bergami and Demont, as between him and any other person. And the very words she uses, "I escaped," leave the impression that her mind was pointed to that conclusion. There is positively nothing in it. I call upon your lordships to consider what state any individual is in, who is called upon to account, at the end of six years, whether Bergami might be in a passage, a water-closet, or following any of the servants of the family, or taking any other course he might choose to take in the night—I call upon your lordships to say, whether any thing could be more iniquitous against her majesty, than to prove that Bergami's bed was in a particular situation on a particular night? Can any thing be more barbarous, more like the infliction of torture, than to turn such a fact against her? Prove him to be in the bed-room of her royal highness, and then his absence from his own becomes comparitively immaterial, but can there be any thing more wicked than the course pursued on this occasion? This illustrious lady is to be convicted of adultery, and plucked down from the throne which she fills, because she cannot prove what Bergami was doing on a particular night at Naples, or at Genoa—not, indeed, a particular night, for the night is not fixed. But, my lords, unless you choose to give effect to those two former cases, which are expressly disproved, and if they import into this meeting in the corridor that which is disproved in those cases, there is nothing in those two pieces of evidence which I have just read to you.

But, my lords, the evidence does not rest here; for if your lordships will turn to page 360, you will find that there, that evidence which is so contemptible and

* See Vol. 2, page 1116.

* See Vol. 2, p. 1158.

imperfect, and which really is perhaps nothing, is made to prove a case against her majesty—at least a case of suspicion and of inference and of surmise. For how is it my lords? My learned friend the solicitor-general, on the 2nd of September, in his re-examination,—this woman having been examined in chief, I believe on the 30th, and cross-examined on the 31st of August—having had two days to consider how far the case was imperfect, and what circumstance was wanting to make something of it, my learned friend, in a manner of which I beg leave most distinctly to complain, thinks proper to proceed in a course which I undertake to say, would not have been attempted in any court of justice in this country. My lords, the rule in a court of justice is, that you have no right to ask a witness to any facts on his re-examination, unless that right is given by something which occurs in cross-examination. If you wish to introduce any new fact, you are to give the adverse counsel notice of it, that his attention may be distinctly drawn to it, and that he may cross-examine to it if he likes.—If you wish the Court to re-examine for you, you apply to the discretion of the Court, and the Court will judge, under all the circumstances, whether that discretion will be fully exercised in putting such a question to the witness. On this occasion, my lords, when I suppose our attention was diverted, when in the vast mass of evidence which has been produced, we were perhaps talking over other points, without any permission of your lordships, my learned friend suddenly takes the witness back to Naples, and makes her state, that the moment she had gone out, the door was locked, and the key turned upon her,—"I saw, that they shut the door"—"Je vis que l'on fermait la porte."* Then, if your lordships suppose that the princess and Bergami were the only two persons in that part of the house, it does become a matter of suspicion, that he was not pursuing Demont, but another person. It struck me with surprise when I read the evidence; and I am perfectly sure, that if my learned friend had asked your lordships to put that question, you, and every judge in Westminster-hall, would have refused it. For what is the consequence to parties? Here is a witness two days away, to consider the effect of that which she has proved. Why was not that fact asked to in the outset? Will it be said, that the rigid rules of examination in chief precluded her being asked what was done with the door? Was it right that, our attention in cross-examination not having been called to this, she should be allowed, after two days consideration, to make a fresh case, by adding a new and important fact, as to which my learned friend had no right to examine her? What would have been the conduct of the Lord Chief Justice? He would have said, "if you ask the counsel on the other side, you may do it, they having the liberty of cross-examination; but if you apply to me, I must exercise my discretion upon the subject; and if I find that a suspicious witness has been five minutes only out of court with the power of persons conferring with her who may instruct her, I will not permit the question to be put." My learned friend, however, put the question—the answer came—and it was from that answer so given that this part of the case became worthy of one moment's consideration. I put this to your lordships as a specimen of the equal holding of the balance which my learned friend has displayed; and I leave it without further observation—my object being to pursue the facts as closely as I can.

Now, my lords, we come to that other fact—indeed, two of them—which I suppose we are to take as charges made of an adulterous intercourse. Bergami, indeed, was ill; but that appears to have been no bar at all to the sort of connexion imputed to him and the princess.—When he is ill, he appears to be most an object of her attachment and affection—for she goes into his room and remains there just long enough to permit him to enjoy those embraces which she is supposed to tender to him. And now your lordships are expected to believe, upon the evidence of that wretched discarded servant, living three years in the service of her royal highness and coming here at the distance of six years, stating no facts to which the shadow of a contradiction can be expected to be brought—your lordships are expected to believe, that this man is speaking the truth, when he says he was sleeping in a cabinet, and that her royal highness passed through his room to that of Bergami. And am I to ask what is to become of human life, if such evidence is to affect any human creature? Good God! there was a passage to which no interruption was offered—a passage known to all the parties, and which it

* See Vol. 2, p. 1210.

would have been equally easy for any infatuated woman to have taken—but instead of that, she chooses to go into a room where a fire is burning, where a servant is lying to watch a sick man—a man who had just come into the family, and therefore not in confidence in the service—to pass him twice on the one night, and twice on the other, giving him the chance of detection, and not at all knowing but that that detection would have been made instantly public, the moment it took place. And thus a person who is supposed to be pursuing her violent attachment, still with the greatest caution, who is supposed to be throwing a veil over all that is improper, nevertheless passes through the room of this man at twelve o'clock (for he gives us the precise time)—and she is supposed to give the means of contradiction to this man! I really, my lords, do not know how to go on with such a case: but, however, it is not proved; because, it is opened by the attorney general, that her royal highness staid ten or fifteen minutes at one time, and fifteen or eighteen on the other; and my learned friend, apologizing for the distrust he must necessarily have caused by the statement, says this man overheard kisses.* This man, however, when called says no, no kisses for that night. There are two or three kisses which he throws in afterwards, but he appears not to have been drilled to the statement of kisses on that night. He hears "whispering conversation;"† and when, to be sure, if the thing actually occurred, kissing was the more probable thing to have occurred than any thing else, he confines it to whispering, and will not carry his evidence any further. Now, my lords, with regard to this man Majoochi—if it is necessary to proceed further with him than to state the enormity of the story he tells, and the consistency between the instructions and the evidence he has given—one would first state, that he is expressly contradicted by Dr. Holland, as to the fact of his having seen him in the presence of Bergami, when he was dressing the foot of that servant. At page 6, he says, "The first time that I saw her royal highness was in the presence of Dr. Holland, who was dressing his foot."‡ To that point, Dr. Holland is asked, at page 618, "Do you recollect the princess coming into Pergami's bed-room during any part of that illness?" The answer he gives is, "To my knowledge never."* Then, my lords, how meet we here? As Dr. Holland must have been vouched by this man, that the story he told to my learned friends was true, why did they not take that opportunity of examining Dr. Holland, as to whether it was true. Whenever this man vouches another, was it fit that such a person should be left to his own unsupported testimony, and that he should be encouraged to blacken the character of the Queen, when he gave an opportunity of ascertaining the truth of the fact by vouching another person? and this after the undertaking which was given by my learned friend, that he would call all the witnesses, in whatever way their evidence might operate, whether on this side, whether on the other. Without regard to parties, with the most judicial and impartial care, we were assured, that every one of them would be called—first, by the king's ministers, who think proper to institute this prosecution; and in the next place, by those legal agents who conduct the business in this place. Here is a man telling a most improbable story—a man of the most detestable reputation vouches a respectable person, and yet that respectable person is never called. How came it, my lords, that Dr. Holland was not referred to, for every part of her royal highness's conduct, while he was not in her service? Surely his opinion was as much to be attended to, as that of a man in the low capacity of Majoochi. And surely these observations will equally apply to those persons who were in the service of her royal highness at the time this supposed adulterous connexion began. Would it have been possible to have concealed such a fact from her ladies of honour? and do not let it be said that they are bound to conceal it. Ladies of honour, appointed by her royal husband, had no duty so imperative as that of declaring the truth upon the subject. If they had been examined it is impossible this wretched case could have been brought here. And yet we are to be told, not only that we are to be fixed by the *primâ facie* case brought against us, but that my learned friends have taken the utmost pains to call every possible witness who could throw any light upon it,

* See Vol. 2, p. 751.
† See Vol. 2, p. 808.
‡ Ibid, p. 807.

* See p. 424, of the present Volume.

whatever the result of their evidence might be!

My lords; there are other contradictions to this individual, if it were necessary to go through them, which most undoubtedly make him a witness not to be believed for one moment. At page 13, he speaks of a secret staircase. And here again, is one of the facts of which we have just right to complain. If any one of your lordships were to be charged with any offence which happened six years ago, and which is to be established by the plan of houses, and the arrangement of the family, could any one of you tell me how those arrangements were at such a distance of time, particularly if you were brought to trial without any specification of the places where those things were supposed to have happened? And such was precisely our situation until my learned friend let us into the secret in his opening speech. And, my lords, the greater the innocence, the greater the difficulty of giving proof of that innocence; for it is the character of guilt to guard itself with precautions; but he who is proceeding in the carelessness of innocence, entertaining no suspicions, would be deprived, in the most effectual manner, of the means of proving that innocence, by the absence of such precaution. The witness, Majoochi, says, "This was a secret staircase, which led also into a small apartment, but it was not frequented, people did not frequent it."* Lieutenant Hownam says, at page 703, it was not a secret staircase, it led to my apartment. There was a door that went to the chambers of the servants, of the lower servants."† Majoochi then says, that Bergami "always sat at table with her royal highness at Genoa."‡ For the contradiction of this, I would refer your lordships to the evidence of Dr. Holland in page 619, Mr. Hownam in page 702, and lord Glenbervie in page 511, because that nobleman appears to have dined with her royal highness two or three times a week during her residence at Genoa, and it does not appear, that on any one of those occasions was Bergami admitted to the table. These things evince the determination of the witness to show himself a labourer worthy of his hire, and determined, like an honest man, to do the service for which he is paid; he, on three or four important occasions, swearing expressly to facts in which he is positively contradicted, and by which it is shown, that he is manufacturing that which he could not by possibility, know to be true, and which it is just as likely that he should, at the time he was swearing it, know to be false.

My lords; other observations occur on the testimony of Majoochi. I confine myself to those contradictions. But when the observations on that man's testimony are attempted to be got rid of by a few observations on his "*Non mi ricordo*," it appears material to remark, that the imputation is not on his forgetfulness, but on his remembrance. He comes to speak of periods, and plans of houses or things, which happened six years ago. That is the circumstance of which we complain, and we prove, that he does not remember them. And we prove, that when he states those facts, he states that which is utterly false; for that circumstances much more likely to be impressed on his memory, much more recent, had been utterly expunged from it. His *non mi ricordos* show, that he has not a perfect recollection; and I do think there never was any witness so entirely demolished by his own cross-examination. My lords, it is said, he is not contradicted: and contradicted he cannot be. Who is to say, whether he laid with his eyes half open when the princess passed through his room? The fact speaks for itself, and disproves itself. But, as to Majoochi, shall I call your lordships recollection to him, when he lets out to you by dribblets what he has been doing since he left the service of his royal mistress? The last answer is quite sufficient. I will read no more, but will refer your lordships to it: "What is the answer you mean to give upon the subject of your receiving money at Vienna from my lord Stewart, the British ambassador there? I remember to have received no money when I arrived at Milan; I remember I did not: '*non so*:' I do not know: '*piu no*:' more no than yes; '*non mi ricordo*;' I do not remember."* My lords, supposing that this man's memory is honest and is frail, what reliance can be placed upon such a memory, as to these stale transactions? But

* See Vol. 2, p. 813.

† See p. 498 of the present Volume.

‡ See Vol. 2, p. 814. See p. p. 426, and 497, of the present Volume.

* See Vol. 2, p. 873.

the supposition cannot be made. It is obvious, be his memory what it will, that his principles are infamous—that he has come here, as one of that conspiracy, which I shall point out to your lordships indignation, determined to ruin his royal mistress, and defeating himself by nothing but that contradiction of himself which he has thought proper to make.

My lords; I shall not go through all the particular facts stated to have passed at Genoa and at other places; for they are proved by Majoochi and Demont alone, and therefore I conceive it unnecessary; but this fact is not unimportant, that at the numerous places at which her majesty stopped by the way during her long journey from Milan to Naples—at Civita, at Leghorn, at Rome, and at other places, they do not affect to say, that there was any thing particular, even in the arrangement of the bed-rooms of Bergami and of her royal highness. How was this violent passion to be gratified, at the moment when it is supposed to be at its height? It could not be in the day-time, when her majesty was living with her ladies of honour and with other persons, and in the night they do not attempt to give any information during the whole of that period—not a very long one, but an important one; because then it was, that this passion was supposed to be most alive.

I was going to pass over a very important part of the case; that is, the visit stated to have been made by her royal highness to the theatre of San Carlos. My learned friend, the attorney general, tells us, that "the dresses chosen by her royal highness on that occasion was of the most indecent description—of such a description, that upon her entrance into the theatre with those persons, Bergami and Demont, attention was generally excited; so much so, that they were received with considerable insult upon that occasion—I mean marks of disapprobation were shown by the persons present, insomuch that they were under the necessity of retiring, and they withdrew home hastily from that masquerade, long before the entertainment would otherwise have ended, in consequence of the observation her dress occasioned. Perceiving that she was discovered."* Now, my lords, supposing this to exist, this Miss Demont, instead of speaking of an indecent dress, stated, that her royal highness had a large red dress, a domino extremely unbecoming, and wore a large hat, and that they were surrounded by a set of ugly masks, who made it unpleasant for them to remain* Then, is there, my lords, any thing in it? But, when I am told by my learned friend, the solicitor-general, that this is not invention, that whatever observations may be made upon it, it is very clear that was the occasion of her royal highness's leaving the theatre, what is the conclusion to which that must lead? I beg to say, that I find no difficulty, and I believe your lordships will find no difficulty in saying, that it probably was invented, that it rests on the evidence of a witness entitled to no credit and no respect, and that she has misled my learned friend in the account of it, is absolutely clear, from the discrepancy between her evidence and the facts which they have stated as introductory to it.

My lords; the inventions of this person's mind are not easily to be traced. We hear that she talked about leaving the princess, because the family were in mourning, that she held out ideas of her soon returning, and that she gave false accounts of her own conduct. If we show contradictions in declarations she has made, and of the most important description, what is to be thought of her evidence? But then, say my learned friends—and the observation has been repeated by some sagacious persons out of doors—this cannot be an invention and conspiracy, because it has not gone far enough. I would abstain from travelling over the ground which my learned friend has touched, and therefore I shall only repeat this observation—that if the facts are proved, enough is made out; but, if on the other hand, we are told, that the facts are left short upon particular occasions, can there be the smallest doubt, that that has been done from cunning and management, and from a wish not to appear too eager, or to prove too much; and from a dread, too, that she might have been contradicted, if she had ventured to state facts that were in the knowledge of other persons. And there is one circumstance, my lords, running through this case, which makes that observation conclusive in favour of our defence. For when we hear of adultery resting on presumption and on inference, no doubt it must do so

* See Vol. 2, p. 753.

* See Vol. 2, p. 1119.

in a great measure; but it is not so entirely different from all other offences, that there is no proof of the *corpus delicti*, independently of such evidence. It may be made clear, independently of the proof of the actual fact; and then the question would be, who were the parties who committed it? It is undoubtedly true. Here you draw inferences both as to the facts and the individuals actually guilty; which is seldom the case in other instances, because, generally speaking, it is clear, that the fact has existed, and the only presumptive proof applies to the parties charged. But the fact of adultery is by no means difficult of proof, and particularly when it is stated to have taken place for two years under the observation of the chambermaid who is so willing a witness to depose against her mistress. My lords, she has talked at the close of her evidence, as if she repented of not having said enough on the subject of stains upon the bed; and it is perfectly impossible but that, during the whole of the facts that are charged to have taken place, if they had existed, such stains would have been susceptible of the easiest proof. This woman does not think proper to swear to any such fact. Why? Because there are persons who could have pointedly contradicted her upon that fact. My learned friends, in their desire to bring all the witnesses forward to elucidate the case, however the facts may appear, have the chambermaid who made the beds during part of her royal highness's residence at Naples, Demont making them during the rest of the time. Yet they never ask Demont as to the state of the beds or the linen; and this Annette Preising they never call before your lordships at all. My lords, if this case rested upon the transactions at Naples alone, I would not say one single word more; because I am quite sure, that while justice retains its name and its principle, it is a direct acquittal of the Queen. For, can your lordships for a moment suppose that those persons who have had the ransacking of every foul-clothes-bag, who have not disdained to hire the footmen and chambermaids of the princess, who have raked all the shores of Italy, and who have betrayed all the confidences of private life, who have told you as a matter of cross-examination the jokes which may have fallen from noble peers who have been summoned as witnesses at the table of cabinet ministers, who have called upon a noble lady to state here her poverty, her working for her husband, who to that husband has made confidential communications as to the conduct of her royal mistress, and then with astonishment and indignation has found her letters to her husband in the hands of my learned friends opposite—can your lordships, I say, for a moment suppose, that they who have resorted to such mean and filthy practices would have stopped short at producing such a witness as Annette Preising, if they thought that her evidence would have borne out the testimony of Demont? But, my lords, they have stopped at the very threshold of their case. They have the chambermaid, who could have proved those marks, and that person who made the bed during that time, and they dare not call her. By this single fact, such a suspicion is cast on all that follows, that I am sure your lordships will look at it with the utmost disposition to find it false—that you will think that a case so got up, is so far from being entitled to favour and indulgence at your hands, that it ought to be scouted out of every honest court of justice, where an honest prosecutor can lift up his face, and where a man can tell you his motives for bringing such accusations, and can submit the whole of his conduct to that test, without which no justice can be done between man and man.

My lords; we proceed to Genoa. And there there is not a single fact against her royal highness, that is stated by any other witness than this man. Then we proceed to various places, to return to Sicily; and at Messina, at Catania, and on other occasions, facts are supposed to have occurred, which are to lead to an inference of guilt. My lords, at Catania, there is a fact which requires observation; and I will take that as one of the facts opened by my learned friend, and will refer your lordships to that which is proved upon the subject of what passed at Catania. It is supposed, that Bergami was locked up in the room of his sister, the countess Oldi; that the maids slept between that room and the room occupied by her royal highness; and that one morning, when they were later than usual in their room, her royal highness passed from the countess Oldi's room to her own, with her pillow in her hand. My lords, this rests upon the evidence of Demont only; and it is quite remarkable to

see with what caution she abstains from naming any one person to vouch her testimony. She says, at page 282, "At the time when her royal highness came through your room in the manner you have described were you alone in that bed? "I was up", "Was any other person in the room"? "As far as I can recollect, my sister was in the same room with me.—""Do you recollect whether your sister was up or in bed"? "My sister was up".* So that here she does not venture to swear, that her sister had an opportunity of witnessing the same occurrence. She does not venture to recollect, whether her sister was up or in bed. She is doubtful whether that sister was in the same room at the time. My lords, I take that circumstance to be most decisive against the truth of the case. It appears to me to be so perfectly impossible that such a thing should have happened in the presence of one woman, and she not know whether it happened in the presence of another also, or that those two sisters could have been present, and she not distinctly remember it. It appears to me, upon the plain statement of the case, to be so perfectly impossible, that even if it rested upon other evidence than that of Demont, I would pursue it no further. There is no voucher of the sister, but a cautious avoidance of it. There is enough to make it doubtful, whether the sister was there. And it is remarkable, that this is the only fact in the whole of her statement, in which that sister's knowledge is called into question in the slightest degree. There is not one other particular on which the one could be expected to contradict the other; and that is introduced under such terms, that even if Mariette had stated, "I was not in the room," it would not have been a contradiction; for she does not state positively that she was there. Then she proceeds to tell, that her majesty looked extremely alarmed and agitated at seeing her—that her majesty looked at her as if she was convicted, and that when she saw her in the morning, no words passed as to the circumstances in consequence of the discovery made. But, my lords, it was no discovery; for the fact of her coming out of the room of Bergami could add no conviction to the mind of the chambermaid, who, according to her own story, must know that her royal highness's bed was deserted every night. This therefore is one of the mere inventions of this miserable woman, as to whom I shall not at present say any thing further, than that any fact vouched by her alone is unworthy a single remark; and I shall leave it without any more observations.

My lords; there are several other distinct facts which are opened by my learned friend. And before we come to the particular consideration of them, having now travelled through all those which rest upon the two main pillars of this respectable case, Demont and Majoochi alone, not even each vouching the other, and neither of them vouching any other person, we now come to other facts, in which we certainly do think it our duty to call your lordships attention most distinctly to the situation in which her royal highness then stood, and the kind of proof by which she is assailed. My lords, we charge, without the least hesitation, that she is now attempted to be made the victim of perjury and conspiracy; and I shall show to your lordships, in what sense I employ those words, and I shall show your lordships how justly they are applicable to every part of this case without exception. We proceed, my lords, to the Italian witnesses who, at so much cost and with so much zeal, have been brought over to this country for the sake of introducing a precedent unknown to it before, and dethroning a Queen, for supposed immoral conduct, when it is quite clear, that as a wife, she could not be affected by that immoral conduct, even if it was proved to have taken place.

My lords; the word "Conspiracy" seems to excite a sort of horror, as if it had never been heard of till within the last six weeks—as if it was quite new to the history of mankind, and particularly to the history of England, that such a thing should have been ever attempted or devised—as if there was something so abhorrent to the character of all mankind in bringing forward a conspiracy, that all proof of adultery ought to be slight and presumptive, and that the mere imputation of it was sufficient, rather than suppose a conspiracy to have happened. My lords, it so happens, that since the time your lordships assembled, there have been two cases tried at Guildhall, in which individuals have been convicted of the most extensive conspiracies—not Italians, but English—committed under circumstances the most flagrant, the most cold-

* See Vol. 2, p. 1137.

blooded, and the most corrupt. The one was the case of a young lady of great respectability of connexion, who in the country had charged a young man with carrying her away, by the help of his relations, who are supposed to have laid a scheme for her abduction, and who carried her to a considerable distance, where, by threats and violence, they compelled her to submit to be united to him in marriage. This fact was told with a degree of circumstantial detail almost unknown in the history of courts of justice. It was told in a manner the most imposing and the most satisfactory; and no witness ever gave her evidence so completely with the concurrence of all who heard her, as that unfortunate young woman. She underwent an examination of above six hours; and at the end of the case, the Judge turned to the jury, and asked them, whether they could entertain the smallest doubt that that conspiracy was distinctly proved? I believe that no less an individual than Mr. Bankes, the member of parliament, was the foreman of that jury; and he instantly, without hearing the summing-up of the case, declared the unanimous opinion of the jury to be so strong and so clear, that to hear the evidence again detailed would be an idle waste of time; and therefore, with the fullest persuasion that they were doing the clearest justice, they pronounced, that young lady's evidence to be true, and convicted six or seven persons of a family of a conspiracy. A new trial was afterwards moved for, on affidavits, which were encountered by other affidavits, and that new trial was refused. However, the whole of the facts were brought before the Court upon those affidavits, and some of the parties who deposed against the defendants, and particularly the prosecutrix herself, Miss Glenn, were indicted for perjury, in having conspired to accuse those individuals of a conspiracy; and it is only last week that her trial took place. She was convicted of perjury—her servant maid was convicted of perjury—after the fullest inquiry; and no human being now entertains a doubt that she was guilty of perjury, of falsehood, and of conspiracy, from the beginning to the end of the original case. But, my lords, that discovery came too late to restore to life one of the sisters of the young man, who had been accused, herself a defendant, who was convicted of having joined with him in that conspiracy, and in pursuance of that conviction, confined for a long period of time in prison. It came too late to save their circumstances, or even entirely to restore their character; but I trust it does not come too late to operate upon the minds of every court of justice that may ever have to try a similar case, to convince them, that it is possible, that even the best and the most respectable appearances may be delusive—that speaking to recent events, that speaking to subjects on which the parties could not be deceived, they may yet deceive others—and that conspiracy may be successful for a time. But this was a peculiar case; this was a case in which a young lady was to defend herself, by some imputation on others, from the circumstance of having run away with a young man. But, my lords, this is not the only case of conspiracy. We have them by profession. We have persons who make a trade of perjury. There are numerous individuals ready, at any hour, to come and swear for five shillings to their possessing property to any amount, for the purpose of becoming bail for persons who may think proper to bring them into court. The fact is notorious.

My lords; another case, tried since your lordships sat here, is a conspiracy in respect of a man made a bankrupt on the ground of a fictitious bankruptcy, by persons who are in the habit of bringing forward false debts, and by a series of perjuries committing frauds on the honest creditors. I allude to the case of the King *versus* Cohen, decided a week or two ago. There was a similar case a little more than a twelvemonth ago, in which it appeared, that this was every day practice, and that witnesses might be hired—that they were doing but their ordinary daily work when hired to make those fraudulent depositions. The very same thing occurred a year and a half ago—a case in which I was concerned—where not less than ten persons were convicted and six or seven let off; and that was followed by another case, where I believe no less than 100,000*l.* in value had been gained of the merchants who were deluded by those who imposed upon them. My lords, this happened in England, where there was an opportunity of inquiring into their history, their conduct, and their character—where there was nothing but the wickedness of conspiracy that carried it through, and where it was demonstrated, that such evidence was as

much a matter of hiring, as any lodgings which could be taken in the west end of the town. Is it necessary to go further back on this subject of conspiracy? Do we forget that there was the case of Elizabeth Canning, who after convicting some unfortunate persons, was herself convicted of being the instigator and planner of the conspiracy, for the excuse of herself and for more vicious purposes? But, my lords, where is the popish plot? Is Titus Oates only the subject of a poem? Is it true, that during the same æra, when the then duke of York was doubtful whether he should renounce the wife whom he had married abroad, the daughter of lord Clarendon, when his friends were willing to assist him in getting rid of her—is it not mentioned by the count de Grammont, that four of these friends met together, and that three of them stated circumstances affecting her character for continency, and the fourth, that the last favour had been granted to him. No doubt can be entertained, that there have been in all ages persons who have been ready to gratify those importunate monarchs who have granted the greatest favours to the lowest places, and who have held out the hopes of reward, not, perhaps, by words, but by their conduct, to persons who would volunteer to serve them in those kinds of proceeding to which I have been now alluding. But is it not true, my lords, that in the reign of Henry the eighth, one of his wives was convicted of incest with her brother, because that monarch wished to get rid of his wife? That also happened in England—in a country where we hear with such horror the name of conspiracy. I do not make the application from former times to the present; but I say, that the facts against Anne Boleyn were quite as strong as the facts now proved against the Queen, and rested on evidence of a more respectable character. But, my lords, I need not go so far back as that fact. Most undoubtedly, in our own days, there have been some facts which savoured pretty strongly of conspiracy on subjects like this, and of which it was intended this illustrious person should have been long ago the victim. We cannot have forgotten the inquiries in 1806. We cannot have forgotten that most properly, in consequence of certain circumstances which had occurred, there was an inquiry into the conduct of her royal highness, the effect of which was, to cover her accusers with infamy, and to raise jealousy and care in looking at any other case which might afterwards be presented.

My lords; it is well known, that in 1813, when it was the will of his royal highness, the prince regent, to separate the mother from the daughter, those facts were alluded to, which were proved to be founded in perjury; and, strange to say, those very individuals who had been her majesty's defenders against the charge, produced those who were to exclude her from the society of her daughter. My lords, was there no perjury there? was there no subornation of perjury? If not, it was quite unnecessary for the counsel to enter that minute which I will now read to your lordships, and in which they thought it necessary to acquit a particular individual never charged, to pronounce a sentence of acquittal in his favour. This was very strange; for he was never charged with any thing of the kind. But at least, admitting that there had been subornation of a most base and wicked description, in February 1813, this minute of council is to be found—"We also humbly trust, that we may be further permitted to notice some expressions in the letter of her royal highness the princess of Wales, which may possibly be construed as implying a charge of so serious a nature to be passed over without observation. We refer to the words 'suborned traducers.'" Do they deny the truth of that expression? No. They deny its application to the party to whom it is supposed to refer. "As this expression, from the manner it is introduced, may perhaps be liable to misconstruction (however impossible it may be to suppose that it can have been so intended) to have reference to some part of the conduct of your royal highness"—addressing this to the prince regent, and tendering this voluntary acknowledgment—"We feel it our bounden duty not to omit this opportunity of declaring, that the documents laid before us afford the most ample proof that there is not the slightest foundation for such an aspersion." How it was possible for any documents to contain ample proof of such a proposition, I have always been at a loss to discover; but these documents are supposed to remove that impression. I

am sure I have no wish to cast it; but I quote this minute only to show that there were "suborned traducers" known to exist at that time, and that it was thought proper by the privy council of the prince regent to pronounce an acquittal in his favour lest he should be supposed to have suborned those traducers.

I think, my lords, we may approach this doctrine of conspiracy, without being supposed to introduce any thing very new into the history either of Italy or England; but most undoubtedly, if any individual should wish to get up such a conspiracy, and should cast round for a place where the materials to form it with effect could be most easily found, I think he would cast his eye upon that country where assassins may be hired—where a price is put upon an oath—where the superstition of the people has made them the instruments of every fraud and every kind of tyranny—and where the individuals when coming here, cannot be considered, as standing in an English court of justice, entitled to any credit at all; but particularly when, at the distance of six years, they come to state that which cannot be supposed to have passed in their minds; and, still more particularly, when there are such imputations cast upon them, from the knowledge that such information could not be given by them, whether true or false, without entitling them to that very reward in question the most likely and most able to repay them with interest for all the sacrifices of principle which they might make.

My lords; I ought perhaps to observe, that in the course of my learned friend's opening, there is another count, as to what happened at Zavouan, on the coast of Africa. There it is stated, that the bed rooms were the most convenient, that every thing was placed in a situation, the most suited for criminal intercourse—that Bergami was the only person who had the means of access to her royal highness's room—that the bed was of a large size, and evidently showed upon the following morning that her majesty had not reposed in it alone, but that two persons had slept there. "In any ordinary case," says my learned friend, "that fact alone would be sufficient to decide any person who had to decide upon it, that adultery had been committed that night."* I know my learned friend did not cast those imputations at random. I know he was instructed to this point; and there was but one witness by whom he could have been so instructed. It is Demont—probably her written depositions taken at Milan. But she does not dare to state one single syllable of this part of the case. There is not the slightest particle of her evidence which justifies such an imputation. At Varise, upon the subject of which no evidence is given, we hear of adultery. Then we hear of adultery at Lugano. No evidence is given upon that subject. And here I complain, and have a right to complain, of the conduct pursued upon that occasion. I do not believe that there is any material witness from Lugano capable of proving any such fact. I do not dispute the word of my learned friend, that he has been so instructed, but I do think he should have paused before he made that application to your lordships, which gives a handle for persons who are willing to believe any thing against the Queen, to state that there might have been more evidence, if time had been given to produce it. All the circumstances connected with this case show distinctly, that there is not a witness capable of deposing to any fact whom it would not have been perfectly easy to bring to depose to it. And as to their pretence of a riot at Dover, and their having been driven back on the 27th of June, and not being able to come over here before the 7th of September, it is a little too much to call on any body to believe that statement, — always supposing that my learned friend had received that statement, but always denying that there can be a single witness who has not been called, and always complaining that we had not notice, that we had not a previous statement, that such witnesses were expected. If there has been any warmth in our address—any invective—our excuse is, that we were taken entirely by surprise; and I am sure that would form an ample apology for all our transgressions of this description. And with regard to what took place yesterday, we were certainly taken by surprise, by that most extraordinary application, upon which one word may yet be said.

Now, my lords, I do ask again — Was there ever an Opening so completely disproved by the evidence? Was there ever, in the memory of any legal man, so

* See Vol. 2, p. 779.

total a failure? Sometimes one is taken by surprise — one has not read one's brief — one is not prepared — our witnesses have not arrived. — But, can that be said for the failure of my learned friends? They have had their Milan commission — they have had their spies through the continent of Europe — they have fixed their own time — our prayers upon that subject have been overruled and refused. They have had a total absence of other business, at the period immediately preceding, to enable them to become acquainted with the facts. My learned friends are not so young in business as not to be able to state the case — they are not so deficient in powers, that they are not able to lay their case before the judicature. Quite the contrary. And yet they have entirely failed in making out any fact, between the arrival of the Queen at Naples and the circumstances to which I now refer, on which a charge can be made; and therefore it is with some degree of confidence, that I now proceed to make observations on the further part of that case, as it is disclosed to you. May I be allowed to say, that though we have some proof in England of what conspiracy and perjury may do, and though there is no country in which they would be so little likely to be successful as our own, there are some specimens of that laxity of conscience which grows in respectable persons who have to deal with such characters, and I should like to refer to a Roger North's Life of his brother, Sir Dudley North, a merchant in Turkey, in which he describes a number of his proceedings — how he used to see the judges before-hand, and tell them a little of his case, not to endeavour to pledge them to an opinion, but asking them to dinner, and treating them with consideration — and how he always got the cadi to tell him what was fitting to be done, so that when the case came on, he was always prepared. And with regard to witnesses, he says, "Our merchant found, by experience, that in a direct fact, a false witness was a surer card than a true one; for if the judge has a mind to baffle a testimony, an harmless, honest witness, that doth not know his play, cannot so well stand his many captious questions as a false witness used to the trade will do; for he hath been exercised, and is prepared for such handling, and can clear himself when the other will be confounded." And hence he draws the inference, that it is much better to have a false witness than a true one. This, my lords, is as respectable a Turkey merchant as ever carried on business in that country. It is remarkable, that whenever our great dramatic poet wants a witness to blacken the reputation of an innocent wife, he lays his scene in Italy — he goes to Naples, Messina, or Venice. Whether it is Iago, Iachimo, or be it who it may, that is the scene from which he takes his witnesses; from that country where, speaking in plain language, they are used to perjured witnesses and forsworn persons. I would refer to the language in which Shakspeare has described two gentlemen of Messina. I do not know whether they were a Captain and his Mate; but, what is very remarkable, they had a thousand ducats for the evidence they gave, to convict a virtuous and innocent lady of incontinence; and that evidence I am going to quote, in the words of a very dignified person, a model of official dignity, and he takes care to be very cautious in the language he employs. He is asked, "Which be the malefactors?" To which he answers, "Marry, that am I and my partner." That was a mistake; but not a very unnatural one; for he was a commissioner for conducting the inquiry. But when he is asked the reason of those persons being kept in prison, he says, "Marry, Sir, they have committed false report; moreover, they have spoken untruths; secondarily, they are slanderers; sixth and lastly, they have belied a lady; thirdly, they have verified unjust things: and, to conclude, they are lying knaves." Now, my lords, I have thought it necessary to copy this passage. I have often endeavoured to remember it, according to the order in which the gentleman expresses himself; for I never could find words more appropriate to my present purpose, than those which your lordships will find in the last act of "Much Ado about Nothing." But then, my lords, those two persons Gargiulo and Paturzo, "how very well dressed they were! how very much entitled to every respect that can be paid to gentlemen!" Why, my lords, they ought to be well dressed; for I never heard of any persons who were paid so well for the evidence they gave, and I think it not immaterial to consider under what circumstances they came to this country. Gargiulo was the captain of the ship — he would have sunk Mr. Flinn

upon your lordships altogether, if it had not occurred to us to know that lieutenant Flinn had some command in this ship. Mr. Gargiulo has 750 dollars a month for the use of his ship, for the use of his crew, for the interest of his money, for the expenses which would result from the voyage ; but he looks forward to the " uncertain benefits " likely to result from the employment of royal persons — he hopes for 6,000 dollars, but is disappointed ; and Bergami is the person who disappoints him ; and then he engages to come to England at a thousand dollars a month, which is an income equal to the income of a prince-cardinal at Rome during a whole year. But he comes here with a claim on the English government, with a claim of 6,000 dollars, which had been withheld from him ; he makes his application to the English government, and it is by that circumstance they find out who he is. Do not your lordships imagine, that this man would think his claim was likely to be enforced with success in proportion to the evidence he gave against her majesty. My lords, it is idle to talk of impartial witnesses, in a case of this description. It is impossible that any man so circumstanced should come with an unbiassed mind to the investigation of this question. It is therefore absolutely necessary that every witness should stand clear of every imputation of bribery, and of every other description of charge. This man comes to your lordships bar, to do precisely that which was done by Demont, and so many other of the witnesses ; that is, to add a falsehood to a truth, and to give to innocent circumstances the appearance of guilt and of infamy. My lords, is it really to be believed, that her royal highness, when she goes on board the polacre of which we have heard so much, should let down the awning of that polacre in the day time, when she is sitting on a sofa by the side of Bergami, or sitting on the bed for the purpose of every thing like an improper intercourse — my learned friend says, " to exclude the observations of the crew, " but I say, to attract it. I say, if such an absurd proceeding was to take place when such a thing existed in her mind, there could be no mode more capable of making known what was passing ; and my learned friend says, that when that fact is accompanied with kissing and caressing, you may believe that fact to be true ; but without that, the last inference could not be drawn from such circumstances. My lords, I say, these kisses and embraces were what the thousand dollars a month were given for — these are the statements for which the payments are made. Having got a frame-work of suspicion, in the ready promotion of this man to the office of chamberlain about her royal highness, and in her royal highness's condescending manner to all who approached her, these individuals thought they would try how they could add to the facts by those inventions. Then comes the nephew. Why is he to be called alone ? He is to be sent out of the way, lest he should see this kissing and caressing. There never was so happy a prospect of a settlement to this family, as the payment of a thousand dollars a month to the one, and eight hundred to the other, for coming to state that, in addition to the lying under the tent, there were those familiarities going on betwixt the parties, which led to the belief of a guilty intercourse between them. Now, I ask your lordships, who know what the characters of nations are, whether it is possible to believe, that any Italian or Sicilian would have hesitated to make that deposition, in addition to any thing he might have seen, for the sake of a thousand dollars a month, and for the sake of providing for his nephew ? I think I can almost tell the form of the letter he would have written — " You have only to come and say so and so — that you saw them sitting on a gun, with the arm of one round the other. You may marry and settle, and you are happy for life ; and there is a prospect, as this will last for a year, of your fortune being made, or a foundation laid for it. Come to England with me ; and as to the rest of the crew who might confirm the fact, they are no relations of mine ; let them stay at home ; it is not worth while to let them into the secret at all." My lords, I say that those twenty-two men who walked the deck ought to have been called — that if those facts are to be made the foundation of gross and wicked suspicions as to what passed under the awning on the deck in the Mediterranean — those indecent facts to which they depose, as speaking the character of guilt, ought to have been supported by some of those two and twenty men who walked the deck — more especially by the steersmen, who, better than any, could have spoken to them. And yet, not one of them is called to prove these facts. My lords, I

say the absence of those men is criminal; that the silence of these men makes out the defence of the Queen; and that when lieutenant Flinn was the English person who managed the ship during the whole of the voyage, it was criminal of those who conducted this prosecution, to found any grave inferences on what passed, until they had examined lieutenant Flinn. What pretence is there for this? They say that her royal highness was sending away all her English attendants, that she might pursue her course with this man. What is the reason? Rumour and report, say my learned friends, sent them all away. I think it would have been proper to have asked these individuals themselves, whether they knew of any facts which created that motive in their minds. I say, that every one of those persons who are mentioned as having left her majesty's service, ought to have been examined previously out of court before this process was instituted, and in court, after it was begun; particularly as both sides were to be called, without any reference to the effect of their testimony. I say, that to mention these rumours and reports against her majesty, in the presence of the court, is doing an act of the greatest injustice, which no judge would permit. If a counsel mentioned rumours, the judge would say, "Good God, what do you mean by stating rumours and reports? If they rest upon evidence, prove it: if not, you have no right to mention them here." They may be the offspring of that very malice in which the prosecution originates. The fact, in this case, is notoriously so. We know perfectly well, that from the year 1806 to the year 1813, these kind of imputations were constantly cast upon her majesty. And that very circumstance could not fail to produce in the minds of some a servile readiness to listen to such reports; and we complain that these rumours and reports, which became the foundation of the present proceeding, are now made the evidence of the truth of the facts. My lords, I say that lieutenant Flinn ought to have been examined on the other side, before any other case was brought; and I wish also to observe upon this, that he was a person who was introduced into the service of her royal highness, not because she wished to run away from the English, but because she wished to have Englishmen always about her — because, after her suite had departed from her, as they have actually accounted for having done, she was free from all impertinent intrusion, if she wished to be so. But, leaving Sicily with a Sicilian crew, she takes care not to leave it until she has applied to captain Briggs for an English captain to be the witness of all her conduct on board that vessel. Then, what becomes of that imputation of her wishing to avoid the English, and of the whole of the evidence being, as my learned friends would have implied, necessarily given by the Italians and spies who have appeared before your lordships in support of this prosecution?

My lords; her majesty went originally from Syracuse to Jaffa, and then there was a short journey performed by land; and on that journey one of the facts is stated, on which my learned friend finds this imputation of an adulterous intercourse. It is to be found, my lords, in page 23 of the Minutes. It is in the evidence of Majoochi alone, and it is contradicted by the evidence we have called upon the other side. He states that at Ephesus, under some vestibule, under the ruins of a mosque, her royal highness, in that part of the day devoted to repose, had her travelling bed brought, that she sat upon that bed, that Bergami sat at her feet, and that they remained at that place a considerable time, all the rest of the suite being kept at a considerable distance.* My lords, it is remarkable, that mademoiselle Demont, who must have known something on the subject, is not called; that Birollo, in page 148, is examined upon that subject, but that he had forgotten he was expected to prove it; and that neither Paturzo nor Gargiulo, both being with her, are asked to that fact; and Mr. Hownam states, in p. 705, that in that place, where the ruins attracted considerable attention, nothing of the sort took place upon that occasion.†

The Earl of *Lauderdale*.—My lords, if it should be the wish of the learned counsel to retire during the course of the morning, probably this would be as convenient a season as any.

The *Lord Chancellor*.—Certainly, Mr. Denman, it must be the wish of every noble lord that you should have an opportunity of delivering yourself in a mode most consistent with your own convenience, and with the reservation of your strength. If

* See Vol. 2, p. 820.

† See p. 500 of the present Volume.

you wish to postpone being further heard till to-morrow morning, I have no doubt that time will be granted; or if you rather wish to retire for a time, and return again, you have nothing to do but to express your own pleasure. Do you wish to retire for a time?

Mr. *Denman.*—If your lordship pleases, for about half an hour.

[The House then adjourned for half an hour; when Mr. Denman proceeded as follows:]

My lords; about the period to which I was alluding when your lordships were so good as to propose that indulgence for which I am extremely grateful, it occurred to her royal highness to carry into execution a design which she had long formed of visiting the Archipelago, Athens, the ruins of Troy, and the Holy Sepulchre; and on that occasion she hired a polacre in Sicily, which carried her out to Jerusalem, and afterwards carried her back to Italy. In the course of that journey, it appears, that she was frequently retiring under a tent; that she was living in a camp, that she was surrounded by her followers, almost like the native inhabitants of the deserts of Arabia; that she was reduced to great hardships—not hardships of which she wished to complain, but which rather endeared the kind of enterprise on which she had entered; that she was living on terms, I would say, of delightful familiarity with all those who were attending her upon that great expedition; that in the course of the day, after the fatigue of the journey she had performed on the night, she rested under a tent, and my learned friends, I think, have made it one of their cases of adultery against her, that under that tent she reposed on one bed, while Bergami was reposing upon another. My lords, this, perhaps, is one of the facts which illustrate more clearly than almost any other caution which I should wish to infuse into your lordships minds upon this subject; because it is quite clear, that the fact to which I now allude, may be stated in such a manner as to raise almost an indisputable inference of guilt; and yet I think it is clear, when the real truth of the case is considered, that for that suspicion of guilt there is not, in truth and in honesty, the slightest foundation. Her majesty was two days and a half in performing the journey. Majoochi tells us, that her royal highness reposed under the tent, and that Bergami reposed there also—but other witnesses let us into the fact that the countess of Oldi was under the same tent, and the child Victorine was there also; and Majoochi afterwards tells us, that he and another individual in the service of her royal highness were constantly in the habit of taking their rest in another tent contiguous to that of her royal highness, and which commanded a view and a knowledge of all that could pass within. How long her royal highness travelled at a time, that honest witness would not fix his memory to recollect—it might be two hours, or it might be eight; but the fact is proved by the evidence of lieutenant Hownam, that she was constantly very much fatigued in the performance of that journey, that she required support, and that she fell asleep more than once in the course of her travels and performed them with a great deal of labour and fatigue. Under these circumstances, my lord, is it possible I should be called upon to argue, that this is not a case of adultery? Is it possible, that there can be one mind in existence so uncharitable, so uncandid, so unjust, as to adhere closely to the mere words in which a fact can be related, and to lose sight entirely of the *bonâ fide* meaning and intent of the whole transaction? I defy any one honest man to lay his hand on his heart and tell me, that he believes, that adultery was committed upon that journey by land. It seems to me, that I should but waste your lordships time by entering into any further particulars upon that subject; not but that some attempts were made on the other side to introduce other circumstances, but the failure of those attempts I take to my side of the account. It shows, that as the facts now stand, they were not considered sufficient; and it shows, that sufficient proof has not been obtained to warrant my learned friend in calling upon your lordships to come to that conclusion, that a guilty intercourse had taken place. "Were the beds regularly made? Were the beds regularly prepared?" is the expression of my learned friend the solicitor general, in leading the witness to the question. A regular preparation of beds is a regular preparation for the enjoyment of matrimonial intercourse. But it turns out, that though the beds were regularly prepared there were no bed-clothes, no linen They were made in no sense in which beds can be said to be made; and these

two parties, who are supposed to recline under this tent for the purpose of criminal intercourse, slept at a distance, the one pulling off her silk pelisse and the other his travelling coat; but all the remainder of their dress continuing precisely as it had been during the journey. Now this Demont has taken great pains to state as undressing in the strongest possible terms —she has endeavoured to carry that as far as possible into the nature of the intercourse between two individuals who lay aside their clothes and go into the same place of repose, for whatever purpose; but, in the course of her cross-examination, it was perfectly clear, that the extent of undressing is no further than that to which I have alluded, and that the encampment was continued with as much innocence and as much purity as any persons have ever reposed with, even under the most separate roofs.

Now, my lords, we come to the polacre; and I assure your lordships it is with no small satisfaction that I approach that part of the subject; because I think it is most perfectly clear, that there is no more ground to suppose, that any illicit connexion had taken place before these parties entered on board the polacre, than there is for any one of your lordships to suppose that any female of your family, whom you left at home this morning under circumstances which gave an opportunity of connexion, has therefore been guilty of such a crime. If the whole of the scenes at Naples were negatived—if the very foundation upon which these facts are stated to rest are proved to be untenable —if it is not only perfectly clear, that the imputations were made upon facts that do not bear them out, but that direct falsehoods have been uttered, and that the worst of all falsehoods has been perpetually resorted to of giving the appearance of truth to that which is known to be a lie—in that case I say, that her royal highness the princess of Wales goes on board the polacre without one single taint of suspicion, resulting from any thing that has gone before—I mean, my lords, as to facts that are directly imputed to her as crimes. I do not at this moment refer to that supposed inference from the elevation of one of the party concerned, on which I mean to offer my observations very fully to your lordships hereafter, observing at the present moment that it is impossible for you to consider those facts of his elevation and promotion, as alone sufficient to guide you in your decision; for if that had been the case, it would have dispensed with the whole of this inquiry—it would have been utterly unnecessary for us to have entered into the statement through which we have been travelling, and we should have been only wasting time unnecessarily, improperly, and indecently, by entering into the nature of that precise proof attempted to be brought before you, as to the adulterous connexion said to have taken place at Naples. My lords, I have a right to say, that if there is truth in argument, or justice in inference, her royal highness steps on board that polacre without the smallest suspicion of any thing improper having passed between them. What the conduct of her royal highness was, after leaving that polacre, I shall hereafter have to observe upon: but, if you are satisfied, that neither before or after her being on board this polacre, there is the slightest proof from which any one can draw an inference of guilt, I call upon your lordships to consider, whether, in this case of dethronement and degradation, in which the evidence ought at least to be clear in proportion as the punishment is heavy and overwhelming, you will be satisfied that, under such circumstances, the mere possibility of an intercourse having existed on board the polacre can make out that adulterous connexion, upon which alone I am calling upon your lordships to pronounce.

My lords; the encampment that took place on shore was not immediately continued on board; because her majesty at first, it seems, slept in the cabin, and the other arrangement of her cabins took place as it had done before; but, in the course of the voyage, probably very soon after the going on board, some of the horses or other animals, became troublesome below, and on account of this, her majesty thought proper, the weather being very hot, to take up her station on the deck. Now, I ask your lordships whether, if her majesty had been the blind victim of an adulterous attachment to this man, that could have been the course she would have pursued? Is it to be believed, that a trifling inconvenience of that nature would have stopped the tide of irresistible passion? Is it to be believed, that she would have withdrawn from his secure embrace, where no eye could witness what passed, and where nobody pretends to have seen any thing which reflects upon

her, and that she should have transferred herself from the cabin to the neighbourhood of the steersmen, to the constant interruption of the crew; and if there, should have placed herself under what is called the tent? A tent! Oh, no! any military officer, if I run away with that phrase, would correct me at once, and say, "it is not that close and small chamber in which such acts can be safely performed." It is the awning of the ship round the pillar placed to receive it. It hangs loosely. There are two beds placed at a distance in this which is a large room, and the hatchway is always open—a fact let me again call your lordships recollection to, which was never opened, which was never stated in the examination in chief, which was discovered either on cross-examination, or I believe by a subsequent witness; because I believe Majoochi did not prove it all, but that important fact, that the hatchway was always open, and that the party were all therefore sleeping as in a camp on the land, was suppressed from your lordships, for the purpose of making an impression not at all warranted by the truth.

My lords; we are told, that during the night these things took place, and that during the day this awning was let down. I really do not know how to deal with such a fact. If it is possible to suppose, in the first place, that two persons could at night repose innocently under an awning, what would their conduct be but that of challenging all mankind on board that polacre, by the mode of living that existed in the course of the day, and by exposing to the observation of them all, and to the suspicion to arise therefrom, the mode in which they frequently occupied those beds. It could not be for the purpose of adultery. The period during which this voyage took place, appears, I think, to be from the 20th of July to the 17th of August. During the whole of that period her royal highness was extremely fatigued with her journey—extremely annoyed with what she had undergone. Her personal inconveniences are stated by the witness, Mr. Hownam. It was absolutely necessary she should be attended by some person: and what person could attend her so properly for the purpose of protection, for the purpose of convenience, for any purpose whatever, to a princess residing in such an uncomfortable situation, as that person whom she had appointed as her chamberlain, to be in constant personal attendance upon her. Her clothes are worn during the whole of that voyage. There is no situation in which she is stated to have been without them. There is only one night on which both of the parties are found to be sleeping under the tent; and they are at that moment perfectly clothed. My lords, if I were disposed to quibble—if I were disposed to ask for an Old Bailey verdict—I might successfully ask for it upon this fact, that there is no proof that these parties resided during the whole night under that tent; for there is no one who states, that he saw them under the tent, and the only proof is, that when they were alarmed by a storm, Mr. Hownam saw her royal highness coming down from the deck handed down by Bergami on the one hand, and Mr. Flinn on the other. I do not deny that it is probable that Bergami slept under that tent on other nights; but then it was on a bed which had no bed-clothes, at a distance from that of her royal highness, and under circumstances negativing guilt. The light is continued, there is no mystery, as Mr. Hownam says. A most important observation is, there is nothing showing a desire to deny the fact. Her royal highness, an unprotected female, but the boldest of the party, wishes, on account of the heat, to remain on deck. There were two and twenty sailors constantly walking the deck. There were the steersmen and persons regularly continually passing. There was a constant liability to interruption; and yet the only period at which it can be inferred they were upon the deck at night is, that in which Mr. Hownam states, that the two gentlemen were leading down her royal highness, in consequence of the alarm that had taken place. But, my lords, in the absence of that direct evidence, we have a specimen of the mode in which this case is attempted to be extracted from the witnesses who came on the part of the Queen: and inasmuch as lieutenant Hownam, with the candour and the frankness which belong to his manly character, has admitted, that he believed her royal highness did sleep in the one of those beds on deck, and that Bergami slept on the other, we hear a triumphant echo from all parts of the town, and a triumphant murmur from my learned friends when the admission is made, and all that he believed and all that he admitted, both at the same time and at all other times, as to the conduct of her royal highness, is to be excluded from your

lordships recollection, and you are to fix on that single and solitary fact, of his believing, that under that tent both these parties slept.

My lords; in what situation are parties accused to stand, if the counsel for the Crown, in a case of the utmost gravity and importance, are to make out their proof, by disgraced witnesses, by discarded servants, by miserable contradicted and discredited persons, come from God knows where, to tell your lordships that which they are paid for telling you! But are you to set up what is called a *primâ facie* case, to call for an answer, and are you from that answer to pick out a particular point of belief from the witness, and excluding all the other admissions and all the sworn facts of the answer so called for, to make out a case of a criminal nature? My lords, I believe it is quite unheard of in a court of criminal justice. The question itself, as put to Mr. Hownam, might perhaps have been objected to. The belief of Mr. Hownam is no evidence in the case at all. It is proper to be put to him perhaps; but only proper to be put to him as a mode of trying his credit; and then, when he answers that question in a manner to do him the highest credit, my learned friends take that point upon which they found those inferences so injurious to the Queen, and so contrary to all the other evidence which captain Hownam has given. My lords, he says there was no mystery; and he says it was necessary the Queen should there have a protector. He says, that from that fact being necessary, he could hear of the fact taking place without discovering any degradation or any sin. And when your lordships consider, that during the whole of the three years through which his evidence has run, my learned friends have had an opportunity of sifting his mind to the very bottom, and of knowing from this private secretary all the secrets which belonged to the household of her royal highness during the time when this passion is supposed to have betrayed her to the very last of crimes, during the whole of that period, there is not one single circumstance that he states from which it is possible to infer that that crime was committed which they wish to infer by dismembering his evidence, and taking one part of his belief against his positive testimony as to all the rest.

My lords; lieutenant Flinn, who was not called by my learned friends as he ought to have been, was called by us; and I beg to bring him before your lordships under the circumstances in which he presents himself to you, not having been summoned by those to whom he could have given the most material information. Residing in Sicily, without the smallest connection with the Queen of interest, of service, of office or correspondence, he sees in the public papers that these proceedings are instituted, and that they are to run over the course of time to which he can become a material witness. Does he wait for his hundred dollars a month, or see whether he can get as much as the mate of the Sicilian barge? He comes immediately to England, and, like a gallant and honourable man, he comes to tender his evidence to the Queen on facts more within his knowledge than that of any other person, and he comes to your lordships bar to depose to them to the best of his remembrance and belief at a time so distant as that to which he is examined.

My lords; it is quite evident, that he has never been in a court of justice before, and that no individual who ever gave evidence in a court of justice did it with a stronger sense of the dignity of the tribunal before which he stood, and of alarm at the presence which surrounded him. Your lordships saw how frequently he gave answers which certainly he did not intend. Your lordships, and particularly the learned lord who presides, will recollect, that when he was asked whether those papers in his hand were faithful copies, he said they were, not meaning distinctly that they were, and a more nervous and alarmed witness I never saw, being at the time, I think, under some indisposition. Then, on the other side, he is to be asked as to his belief; and I think I will venture to say, that a more accurate evidence on the subject of belief was never given by any witness than was given by lieutenant Flinn; for he founds his belief upon the facts which he knows, and he thinks himself unjustified in stating any facts which do not refer themselves to his own knowledge. "What was the arrangement of the cabins when you went out from Syracuse to Jaffa?" Then he describes it. "Where did Pergami sleep on your return from Jaffa to Italy?" "I do not know. The Queen having gone up to sleep on deck, it was unnecessary for me in paying those morning visits which I was sometimes bound to do, to pass through the dining cabin

in which Pergami's bed had been formerly placed. When I passed through that dining cabin to the room of her royal highness I know he was in his bed, behind the screen. Not that I always saw him. I saw him only once; but I frequently spoke to him and received his answer." I take upon myself to say, that a clearer account of his reason for knowing where Bergami slept in going out, never was given. And why did not he know where he slept on his return? Because he was not called to her royal highness to pay his respects, because she slept on the deck. Then he is asked, "What do you believe?" He states, that he has no ground for believing that Bergami slept under the tent, because there was that bed still there for him, in which he had slept in going out. But, was there no other distribution of the rooms on the homeward voyage? He says, none; it was unnecessary, the distribution had been already made, and I made no alteration whatever in it myself. Her majesty did what she pleased with regard to her sofa; but I, says the lieutenant, had nothing to do with that, and therefore it was perfectly out of my sphere to make any observations upon that subject. Then, my lords, I say, that this evidence is complete and distinct upon that point, and that when he is pressed upon the subject of his belief—a belief which may be founded on hearsay, which may be founded on scandal, which may be founded upon those rumours and reports of which we have heard so much—he is perfectly right, in my opinion, who looks to the facts he knows as the grounds of his belief; and, according to those facts, he would not have been justified in saying, he believed Bergami slept upon the deck. But I am not entering upon those points. No one can forget the mode in which that gallant officer was cross-examined. I do not undervalue the talents of my learned friend the solicitor-general; and I am the last man to undervalue that greatest of all legal talents, that highest exertion which the intellect of man is capable of displaying, that most important means of covering with a shield the interests of truth—I mean the talent of cross-examination; but, my lords, there are very different modes of cross-examining, according to the nature of the subject and according to the wishes of the advocate. I love to see the advocate who can drag the reluctant truth from its lurking place and show what the witness is most anxious to conceal, and show it the most when he is most desirous to keep it in darkness; but that sham-examination, that attempt to betray a man who is desirous of telling the truth into a confusion, taking advantage of that alarm in which he stands—though I have a great respect for the zeal which may be shown upon such an occasion, I feel a very inferior degree of honour for that mode of cross-examination, either in itself, or in its consequences.

Captain Flinn produces a paper just as immaterial to the case as the paper produced from Trieste yesterday, indeed, much less so. It was perfectly immaterial to the evidence of lieutenant Flinn, whether that paper had ever existed at all, or whether the facts which appeared upon that paper, which were only dates and places, had ever been set down upon it. However, thinking he is to be asked about that voyage, what does he do lately at Messina? He makes his clerk extract all the dates which have regard to her royal highness's voyage; he comes to England and he finds it so ill written and so ill spelt, that it is unfit to be produced in a court of justice; he therefore gets another person, the count Schiavini, to make a clear copy of that paper. It might have been as well in Sicily; it was perfectly immaterial to the cause. The dates were got from other witnesses; and the account got from him I do not believe varies from any statement by another. The dates were not part of our case. But then my learned friend, with his powers of mind, and with his great powers of countenance, and with his extraordinary promptitude in cross-examining this individual, certainly does betray him into a degree of inconsistency which, if the paper had been material, if it could have been an object to fabricate that paper for any purpose in the cause which might lead to a just suspicion, that it was fabricated for an object, but which can, when the paper is out of the case, lead to no such consequences. We know how often a brave man appears to little advantage in a court of justice—*cedunt arma togæ*—there is no case in which the gown has so great a superiority, and in which the brave man will, without any blame on his part, appear in a disadvantageous situation. But, instead of the parties being seen kissing upon a gun, and caressing

in the presence of two and twenty sailors, and instead of summoning the captain and the mate to witness those indecent scenes which, if they existed, the parties would have been most anxious to hide in that night of which they had the complete dominion for their criminal purposes, no man can believe, after the evidence of lieutenant Flinn and lieutenant Hownam, that any of those indecent exhibitions took place which my learned friend opened. My learned friend opened, indeed, indecent exhibitions of another sort; and here again we have a complete breakdown of the evidence, that Bergami used to make indecent exhibitions of his person, to please her royal highness. That was the opening of my learned friend. What says Gargiulo? He played some apish tricks to please her royal highness. What says Hownam? That there was a consul on the coast of Africa pompous and strutting about in a way that excited laughter, and that Bergami once or twice put a cushion or two under his waistcoat to imitate this man, and to play apish tricks to make the princess laugh. And this was the whole of the "indecent exhibitions" brought in evidence; and with respect to the facts of kissing and embracing—which are to give a colour to the connection supposed to take place under the tent, so far from it, I say the very reverse is the fact, that the just observation is this, that if they had intended to commit adultery on this occasion they would certainly have kept below, where they had a much better opportunity; and if they had intended to commit adultery on deck, they would have prevented any person seeing that they were under a closed tent in the course of the day—much more, they would not have done those acts which this captain and his blushing mate have stated.

My lords; it is not a little extraordinary, that this tent on board the polacre is the last rag of the case presented against us. And if we show, that the whole of what is stated to have taken place before and after it, is entitled to no respect, I ask whether it is possible for any human creature to believe, that in such a place an adulterous intercourse took place? On the contrary, I will ask you, whether, if those facts had been distinctly opened to you, without the introduction of the Opera night at Naples, without the familiarity in the garden, without the change of dress at the masked ball, without those facts stated by Demont and Majoochi, you would have permitted this case to be brought before you, and whether any judge would not have told a jury, that without antecedent facts it was utterly unworthy of investigation? My lords, we are trying the first subject in the country; and I beg there may be no miserable middle course taken—that you will not say, because there is no corporal punishment, loose evidence ought to be received, because the punishment is lighter. I say, the punishment is more severe; and loath as I am to appear before your lordships for a moment in a state of exaggerated sentiment, which perhaps my situation might excuse, and yours not go along with—I will yet venture to say, that I would rather that my royal mistress were trying at the bar like Anne Boleyn, for her life, than that it should depend upon your lordships to pronounce that sentence, of surviving her own degradation which is sought to be extorted from you by evidence like this. Much rather would I hand her to the scaffold, where she would have to lay her august neck on the block, with all the firmness and manly courage that belong to herself and her illustrious family, than consent to see her leave this country, or live in it a degraded and miserable outcast, the object of general pity or more general scorn, and one whom, though we could not but look upon as brought to it by the misconduct of others, we could but consider as one of the strongest evidences of the degradation of rank and the loss of female character. Therefore, my lords, I say, you ought to regard it as if you were trying her majesty for an act of high treason, committed on board that polacre, and I ask your lordships, thus viewing it, what would be the language of any judge to any jury, who should find a variety of false charges brought and rebutted, and the whole case which rested in impression upon those charges, confined to a single one that is supposed to have existed on board this polacre—what would that judge have to say to that jury, when he told them there was no direct proof of intercourse, the witnesses for the prosecution have not made out that fact, they have not even shown the parties together, there may be a probability and surmise, but there is no proof of the fact, but one of the witnesses for the defence has let out the fact that he believes there might have been that sleeping in the tent at night by

these two parties, while at the same time he negatives the criminal intent, and gives the excuse and justification by the same breath—the judge who did not tell a jury that such a person ought to be acquitted instantly, would deserve to be impeached at your lordships bar for a gross and infamous dereliction of his duty.

My lords; am I to go to this bath—am I to enter again into the fables of Majoochi and Demont, who here, for the first time, speak of one another, and who, in vouching one another, contradict each other? The question is, in what room was the bath? The one says, in the one room, the other says the other; and the witnesses for the defence state, that the room where it was stated to be, was too small to receive it. It follows, therefore, that it was received in the cabin, and under circumstances in which your lordships will suppose that the chamberlain did what was right in bringing the water, and feeling the temperature of it. But it is impossible to suppose that he remained to see the bathing. Where the facts rest upon the testimony of these witnesses, they are good for nothing; and if equivocal facts are to be brought before your lordships as proving a case of this description, you will look to the negative facts which have gone before, and follow after it. My lords, for the making out the case of the prosecution, there never was such a witness brought into a court of justice as lieutenant Hownam was for the crimination of the party charged, if there had been a case against her. He joined her royal highness at Genoa, when the supposed passion was at its height. He continued with her about three years; leaving her, I think, at the Villa Caprili at Pesaro. During those three years my learned friends had an opportunity of torturing his recollection, from the moment her royal highness left her bedroom, till she returned to it; and though they endeavoured to prove certain facts by two or three masons, and three or four white-washers, and five or six discarded servants, they do not venture to put to him a single question as to any fact of that kind passing before him. He negatives it in the most distinct manner, and both he and lieutenant Flinn give the most pointed contradiction to those facts sworn to by Gargiulo and Paturzo, as to the conduct of the princess and Bergami on board the polacre.

My lords; we now come to the Villa d'Este; and here again we get into a charge. But before I notice it, my learned friend reminds me of an embrace supposed to have taken place at Terracina, when Bergami went on shore for the purpose of putting an end to the quarantine—a circumstance for which her royal highness was extremely anxious in her state of fatigue. What is the proof upon this subject? Majoochi says, that below the deck the princess and Bergami being together, thought proper to have him as a witness to their kissing one another upon their lips. It may be so. There is no contradicting it. Majoochi has taken care that there shall be no person present to tell a syllable upon that subject. I say, if you look at the whole of Majoochi's evidence, he is not to be believed; but, upon this particular occasion, there is that foundation for the fact, which becomes the greatest falsehood, with regard to all those witnesses; because when he parted with her upon the deck, all the witnesses proved that he kissed her hand, —but it appears also, that the other persons who attended her royal highness upon that occasion, had the same honour, and that they were all in the habit of doing it, when the princess took leave of them on any occasion whatever.

My lords; there was another kiss which I passed over. I should like to know the price of them. There was a kiss at Messina. Majoochi swore that Bergami being about to go to Messina, at the distance of one mile from the princess's then dwelling, to purchase some articles, there was a kiss to be given, and that he was to be the witness again. He says there was no witness present; but Miss Demont having had an opportunity of reading his evidence, says there was a kissing on that occasion. But how does she state it? Her back was turned. She could not see what passed. There was a kissing; which might be the kissing of the hand or the face; and if it were a kissing of the face, then it would appear to be a confirmation of Majoochi, though he states there was nobody present on the occasion. Can any one doubt, that upon both those occasions, her royal highness gave her hand to receive the usual token of respect? I feel that it is not necessary to waste a single observation further upon these witnesses.

We come, then, to the Villa d'Este, where that valuable member of society, a

gallant officer in the army of Napoleon, Mr. Sacchi, was first taken into the service of her royal highness. And, my lords, it is a little worth while to consider upon what the case rests. We have two discarded servants, Demont and Majoochi, proving that which took place on board the polacre. We have now two new discarded servants, Sacchi and Restelli, to prove facts which it pollutes the lips of man to allude to—which no person of proper feeling would have ever disclosed, and which I should have thought no husband of any feeling would have permitted to be given in evidence against his wife, even if she had deserted his fond and affectionate and faithful embraces, instead of being discarded by himself. Why, the worse he makes his wife, the more profligacy he imputes to her, the more he increases his own shame in having thus thrown her abandoned on the continent of Europe. We have heard of examples supposed to be similar to the present taken from English history; but, for my part, I find no example in English history. I can find no example in any history of a Christian king, who has thought himself at liberty to divorce his wife for any misconduct whatever, when his own misconduct in the first instance was that which threw her into temptation and vice. I find some little resemblance —I find a case in some degree parallel— if I go back to the history of imperial Rome; and, upon that subject, I will venture to call your lordships attention to the only case in the history of mankind, that appears to me to bear any close resemblance to that which your lordships have taken upon yourselves to try. My lords, scarcely had Octavia become the wife of Nero, when almost on the very day of marriage, she became the subject of his unjust aversion. She was repudiated and dismissed on a false and frivolous pretext. A mistress was received into her place, and before she had been very long banished from the house of her husband, a conspiracy was set on foot against her honour, to impute to her a licentious amour with her slave; and it is stated by the great historian of corrupted Rome, that upon that occasion some of her servants were induced, not by bribes, but by tortures, to depose to facts injurious to her reputation; but that the greater part persisted in faithfully maintaining her innocence. My lords, it seems, that though the public were convinced that she was innocent, the prosecutor persisted in maintaining her guilt. He banished her from Rome. Her return was like a triumph. The generous people of that country received her with those feelings that ought to have existed in the heart of her husband. But, a second conspiracy was afterwards attempted; and in the course of that conspiracy, it seems that she was convicted and condemned. She was banished to an island in the Mediterranean, where she was soon (and this is the only act of mercy), by poison or the dagger, removed from her miserable existence. My lords, the words of Tacitus are indeed striking. He says, "Non "alia exsul visentium oculos majore mis- "ericordia afficit. Meminerant adhuc "quidam Agrippinæ, à Tiberio; recen- "tior Juliæ memoria obversabatur, à Clau- "dio pulsæ. Sed illis robur ætatis affu- "erat. Læta aliqua viderant, et præsen- "tem sævitiam melioris olim fortunæ re- "cordatione levabant. The death of her father and her brother deprived her of those natural protectors, who might, perhaps, have stood between her and misery and disgrace. But then, says Tacitus, there were still two disgraceful circumstances to afflict her while still under the roof of the palace. "Huic primus nuptiarum dies "loco funeris fuit, deductæ in domum, in "qua nihil nisi luctuosum haberet erepto "per venenum patre, et statim fatre. "Tum ancilla domina validior. Et "Poppæa non nisi in perniciem uxoris "nupta. Postremo crimen omni exitio "gravius."

My lords; her royal highness, the princess of Wales, left this country when the first conspiracy only had been attempted and had been defeated—she left it, the known and unfortunate object of her husband's displeasure. Those who had most basked in her noon-tide rays, had then deserted her. She went abroad to the continent with reports and rumours indeed of a most afflicting kind. Those reports and rumours have at length (perhaps we ought to thank them for it) assumed something of a tangible shape. They may now be grappled with in the shape of substantial charges; and I trust we have demonstrated to your lordships, that they are utterly unfounded and untrue. But it is in that situation, when deprived of her only daughter, when that unhappy child was removed from the means of any longer protecting her mother, in that fatal month which blasted

the hopes of England, I mean the month of November in the year 1817, it so happens, that every one of the material witnesses in this case was discarded from the service of her royal highness. It was then that Demont was dismissed with all her secrets upon her head. It was then that Majoochi was turned out, with all the kisses that he could prove against her royal highness. It was in that month that Sacchi and Restelli, who had witnessed these disgusting scenes, if they speak the truth, were defied to prove them. And this lady, who is supposed to have been sinning with so much caution, and at the same time with such inconsistent enthusiasm, ventures to turn abroad upon the world when the demand of perjury is known to be so great, the very four individuals who can give evidence against her, and thereby bring her to that last climax of misery to which she had been so long exposed. My lords, they are discarded servants; and I would pause for one moment, upon that single but impressive phrase. I know that all phrases become hacknied in the mouths of men; but when we consider what is a discarded servant who is called at the distance of three years to prove guilt, and particularly the guilt of adultery against her master or her mistress, let us consider for one moment in what a state human society would be placed, if such persons were to find an easy credit. A reference was made upon a former occasion, to that Bill what has several times been introduced in this case, for making adultery a crime to be visited by the magistrate. That bill, however, of which a copy is preserved, excludes the husband who has colluded or connived at the adultery of his wife. I believe it was felt unjust, that that should be punished as a crime; but it was considered far more unjust, that such an encouragement to perjury, that such a premium to malignity, should be held out as that which would be held out to all discarded servants, if such things were permitted to be tried as criminal in an ordinary court of justice. Persons, who have committed adultery are guilty in various degrees; but particularly where the conduct of the husband has been irreproachable; and whatever may be said of the moral feelings, where the conduct of the husband has not been so, the public feeling will not go along with the charge. My lords, those discarded servants who may come forward to ruin the happiness of private life, I never can think of, without thinking of the immortal words of Mr. Burke, who has warned us against the employment of all spies; but, above all others, of domestic spies, by which "man is made to tremble at his very fellow-creatures, the seeds of destruction are sown in civil intercourse and happiness, the blood of wholesome kindred is infected, our tables and our beds are surrounded with snares, and all the means given by Providence to make life safe and comfortable, are converted into instruments of terror and torment." But, my lords, if such discarded servants should depose to facts, with regard to which they cannot be contradicted—if any man should dare to say, that the noble consort of any one of your lordships had got out of her bed in the middle of the night, and, unseen, but through the key-hole, or from the crevice of a door, had stolen to the bed of one of her domestics, consider how it would be possible to repel such a charge, except by the general conduct of the party who had ventured to dismiss the individual said to be in the possession of such a secret, and by the malice of the party, which appeared in the foulness of the charge. One of the wretched men who deposed against that empress to whom I have referred, examined her maid-servant on subjects of that foul and filthy description to which I have alluded, and she, true to her mistress, and firm to the truth, gave an answer full of virtuous indignation, which drew even the strong expression from her, which I shall venture to refer to in the most decent language, because the least understood—Καθαρωτερον, ω Τιγελλινε το αιδοιον της δεσποινης μυ τυ συ γοματος εχει. That, my lords, is the application I make to the evidence of Sacchi and Restelli, those wretches, those miserable men, who came here, the one in the situation, forsooth, of a gentleman, who receives a pension from his government, who had an ensign's commission given him upon the field of battle for his services, who talks of being a soldier and a gentleman, and shows that he is a soldier and a gentleman—by coming here to betray his benefactress. My lords, what great line is to be drawn between treachery and perjury, in such a case? What mighty distinction is there, in point of feeling and of character, between a man who will come forward to betray such truths as he may have become acquainted

with from the extreme confidence placed in him, and that man who will deliberately frame them, for the purpose of receiving the reward of his infamy?

My lords; we know that a witness summoned to a court of English justice is bound to disclose the truth, and the whole truth; and we know, that when he takes the sacred volume in his hand, his conscience is that moment pledged to state all that is in his mind. But, why did Sacchi come here? Why is he a witness upon the present occasion? Because he has been bribed to make these depositions. No summons was sent—no subpœna brought to him here—no force has compelled him to depose, any more than any duty called upon your lordships to try. But here he is, a witness for base and sordid purposes—equal in infamy, whether he comes to betray the confidence of his mistress, or to forswear himself, by saying that which is not true. My lords, the greatest of all traitors, of apostates to Christianity was not forsworn—he came to betray his master by telling the truth against him. And yet the execrations of mankind have followed him, from the moment of his treachery to the present time. My lords, I always think of that great prototype of treachery and infamy, when I see witnesses of this kind advance the Bible to their lips, and ready, like Judas, to betray God and man at once, by the same perfidious and unholy kiss. My lords, this Sacchi is discharged from her royal highness's service in the month of November 1817, and he, with all those dreadful secrets in his possession—what does he do? I say, my lords, that when these four discarded servants were gone from her royal highness's household, the conspiracy was already formed. If there had been no Ompteda—if there had been no Milan commission—if no inquiry had taken place before—if, instead of being expelled from her home, her majesty had left her royal husband for reasons of convenience and pleasure—the conspiracy was formed in their hearts and from that moment, and was sure of being carried into effect. But, my lords, there is indeed a period at which corruption takes place in the human heart, and there may be in the very worst of natures some moments of repentance and regret. Fortunately this Louisa Demont had disqualified herself as a witness against her majesty, by pronouncing in her favour one of the most candid, one of the most respectful, one of the most excellent panegyrics that ever proceeded from the mouth of a servant in praise of her mistress. That evidence must remain; and while it remains upon your lordships Minutes, it is utterly impossible not only to believe one word of what she has sworn in contradiction to that letter, but to believe any of the other witnesses who depose to the disparagement of her royal highness, the face of a character given under circumstances so unsuspicious, so unsuspected with such real sincerity stamped upon every part of it, and with such perfect knowledge of the facts of which she was speaking. It is indeed matter of congratulation, that this witness, who was induced, by her paramour, Sacchi, to come and destroy the good name of her royal highness, should have written that letter which she never expected to see more, and should have given a detail of the conduct of her royal mistress calculated to destroy the whole of her testimony. With respect to that letter, it is evident that it must be sincere. She is writing about her family, about her sisters—humbly intreating her mistress to receive one of them into her family, an innocent girl of eighteen; and she is making every arrangement that her sister who is already in the service, may remain. It is possible to believe, that if she had witnessed those facts at Naples and other places, to which she has deposed, she should have wished to have sent another sister, innocent as she was, into the family? It seems to me, that it is making human nature infinitely too bad; and if my learned friends can only qualify Demont as a witness, by showing her to be utterly discreditable to every particular of respect and credit—as she herself admitted—then, I say, it is utterly impossible to set her up as a witness. And it is by no means immaterial to call your lordships attention to what passed yesterday, when we saw an elderly person, from the neighbourhood of this individual, who having seen by the papers, the scandalous depositions she had made, could not but remember with indignation, the expressions she had used before, and could not but be struck with the difference betwixt one account and the other. What could be more proper or natural than that, seeing this examination that appeared here before your lordships, and which found its way into all the papers, to our disgrace, in the civilized world, she should come and tender herself as a witness, to

prove how different were her expressions at the time?

My lords; the letters of Demont are an acquittal for her majesty. I do most positively declare, that if that witness had appeared in the box, and speaking to the character of the party accused under such circumstances, had expressed herself in the terms of these letters, it would have been a complete acquittal of the party of the crime of which she stood accused; because she knew all that had passed, she was perfectly in every secret. Her own account is, that she knows much to her royal highness's discredit now; but it is perfectly clear, from her previous account, that she could know nothing but what reflected honour upon her royal mistress. With regard to the linen—with regard to the beds—she was in full possession of every fact; and if she had come and sworn to the effect of that letter, the character she gave would have been a most complete acquittal and protection to the party accused. "But," say my learned friends, "we will show, that she is to be believed now, but not then; for that she was dealing in a species of falsehood; instead of its coming from the heart, of which it breathes, she was merely throwing out falsehood to delude those to whom it was shown." But, my lords, this is not the language of scheming and deceit; and surely it is fitting you should see what was then and what is now the motive to induce her to falsehood or truth. I say, those letters are to be received as evidence of her feelings at the time; and, when we are challenged to produce other witnesses, and when it is evident her majesty has been surrounded by dangers of every kind, let me ask, whether, if her majesty had been accused two years ago of these crimes now laid to her charge, she could have looked to any one as a protector, with more confidence of success than that individual who wrote those letters? And yet, that individual is the person who comes now to destroy her--a marvellous illustration of the truth of my learned friend's profound observation—a singular and a providential proof—that her majesty was to be overruled where she was placing, herself, too great a confidence—that it was for us, her advocates, to take the defence into our hands, and where no case had been proved, to meet it fairly and upon the absence of proof—where a case was proved, to meet it by satisfactory answer in evidence; but not to expose her majesty to possible treachery—not to expose her to the consequences that might result from the state of witnesses such as we have seen asked as to facts at the distance of a hundred miles from the case on which my learned friends might take issue with them successfully, and show they were wishing to carry the point a little too far, or were forgetful of that which she might have been expected to recollect. My lords, under these circumstances, I trust we shall be excused by all mankind for resting satisfied with that which ought to satisfy any court. I think we have paid too much respect to the case by calling any witnesses at all. If this had been an ordinary case, there is not one of us that would not have called on the Judge to direct the jury to acquit. It is only the remarkable nature of the case which induced us to give any evidence; and we are now justified in resting where we are, and we are justified in drawing that acquittal from your lordships now, with the addition of satisfactory evidence which we should have been most clearly entitled to, if we had called no evidence at all. But, my lords, I am well aware that there is no end to the ingenuity of man—I am perfectly confident we shall hear observations from my learned friend, the attorney-general. He will ask, why did we not call Mariette, the sister of Demont, who could do more than give a satisfactory answer to a case already answered; and who might, by irritation or confusion, have been betrayed into some mistake. Of this we have had some experience before your lordships. We have seen already the sort of triumph which has taken place, in the evidence of that poor lieutenant Flinn, who introduced a paper for no purpose whatever, and who is considered as condemned to everlasting infamy—as more infamous than the discarded servants who came to depose against their mistress. My lords, it is a little curious to look at the examination of that person; for the last question on which my learned friend dismissed him as unworthy of any credit was—"Did you not say it was your own hand-writing?" Now, the fact is, he never said any such thing; and if your lordships will take the trouble to look back to the whole of his evidence, you will find that was put into his mouth as a thing he had said. His memory was not correct, whether he had said it or not, and it was utterly impossible for him to deny it, and therefore he

said, "If I did say so, it was because I was in such a situation that I could not give my attention fairly to the question before me." Now, with this example before our eyes of lieutenant Flinn being considered as a perjured witness, and being held out by the government prints as a man who has saved this case by having lost himself in his evidence, I think we have exercised a sound discretion in that, if not in any other part of the case, that we would not expose nervous females to, the cross-examination and to the buffetting which they would have been subjected to if produced at your lordships bar. But, at whatever cost, it should have been done, if the case had still existed as a case of attack upon the character of the Queen. We deny that fact; and as I proceed to the further circumstances of the case, I trust that, at every step, the proof of her majesty's innocence will become more clear and more satisfactory.

The Counsel were directed to withdraw, and the further consideration and second reading of the said bill was ordered to be adjourned to to-morrow morning.

HOUSE OF LORDS.

Wednesday, October 25.

The order of the day being read for the further consideration and second reading or the Bill, intituled, "An Act to deprive "her Majesty Caroline Amelia Elizabeth, "&c."; and for hearing Counsel for and against the same; the Counsel were accordingly called in. Then,

Mr. *Denman* resumed—

My lords; in reverting to the evidence upon which I was observing yesterday, I am naturally now brought to state that event from which the whole of those charges have originated: I mean, the engagement of that individual at Milan in the service of her royal highness, whose name is mis-stated in the Bill which your lordships are to discuss, and whose name has appeared so frequently in the course of these proceedings. I think it appears that he was engaged in the course of the month of October 1814; and undoubtedly he was engaged in a menial capacity. But I think it is impossible for any person to have entered into any service, with higher recommendations to the confidence of his employer, or with a better prospect and a fairer hope of being raised, perhaps with rapidity, in the service into which he entered. Mr. Keppel Craven states, at page 533 of the printed Evidence,* the very extraordinary recommendations with which he was introduced to his notice—that the marquis Ghisiliari, who was appointed by the Austrian chamberlain to attend upon her majesty in that capacity, not only treated him upon a footing of equality, but recommended him to her royal highness as a person fit to be trusted and fit to be promoted—as a person who, in the course of the changes that marked that eventful period, the year 1814, had suffered in his fortunes, from the consequences of the French revolution, and who, having been received in the French army on terms of confidence and intimacy, by persons of high rank and distinction, was then reduced by the misfortunes of the times, to seek his livelihood in a lower situation. Your lordships will not have forgotten, that it is stated by sir William Gell, in the 549th page of the Evidence,† that the marquis Ghisiliari treated him with the very highest distinctions, that he saluted him in the manner in which gentlemen and equals salute one another in that country. And your lordships will not be surprised at these testimonies of respect, when you find the French colonel, colonel Teuillé, who knew him for many years in the service of general Pino, speaking of him in the terms in which that gentleman has spoken of him. My lords, I am not defending Bergami upon this occasion. It is not necessary for me to enter into all the particulars of his character and conduct. The mode in which he was presented and introduced to the notice of her royal highness is alone important here; and I think that it is quite impossible to advert to any part of the evidence in which that introduction is stated, without seeing that he was such a person as any employer would be happy to receive into her service, and would watch every opportunity of advancing in it.

My lords; in the course of the twelve months he received that promotion which his friends had expected to be reserved for him. From a courier he became a page; and it may not be unfit to observe, that the courier of a royal person who wears a livery, wears a uniform—that that dress, which is placed upon him by the station he holds in the family of a person

* See p. 331 of the present volume.

† See p. 344 of the present volume.

of that high distinction, is not like the livery that ordinary servants wear. However, at Naples that livery was laid aside: he was then promoted to the situation of a page. In the course of the year, he became an equerry; and before that year was quite completed, I believe, he became a chamberlain to her royal highness. Now, my lords, I certainly do not mean to deny that it would have been very desirable for her royal highness to have placed in that high situation a person of high rank: but surely, my lords, when we talk of the conduct of persons, and are to attribute motives to the proceedings which they pursue, it is a little to be considered, what were her means and opportunities—what right the princess of Wales would have had at that time to expect, or what hope indeed she could have cherished, that any English person of noble rank would have been very fond of entering into that service, to enter into which at such a period was something very like incurring the risk of the displeasure of the court at home; and, with regard to foreign nobility, does it appear, in the first place, that she ever rejected any offer of that kind? On the contrary, Mr. Craven left her because he had engaged to attend upon his mother within the time. Sir William Gell left her, because, having heard of those projects of long travels, he felt his health perfectly unequal to attending her. She was, therefore, at the moment, without a chamberlain; and I do not know that it was possible for her to do better, in the situation in which she was then placed—not passing over any person of rank, for it does not appear, that she had an opportunity of retaining any one—I do not know that she could have done better than to bind a man of honourable character and constancy and of courage to her service, by conferring that obligation upon him, which it is perhaps the noblest privilege of royalty to be able to confer. For your lordships will not forget, that it is the prerogative, the personal prerogative of those persons in high stations, not only by conferring titles of honor as from the fountain of constitutional honor, but by the distinction they possess, to confer rank on those whom they choose to select for those favours; and the individual who has once had the honor of being promoted to the attendance upon, and company of, an individual of that distinction, becomes, as with respect to all the other persons who attend upon that individual, a person of such rank and distinction as they choose to make him. I am not, therefore, interested to inquire, whether captain Pechell formed a just conclusion, when he said, "I will not sit down to table with a man who once waited behind my chair, though he be the companion of the consort of the prince of Wales." Perhaps he formed a right judgment: at all events, he did rightly in acting upon the judgment he had formed. But, my lords, I say no man can suffer in his estimation in the world, by entering into the society of an individual so distinguished by the favour of a royal personage who thinks him entitled to that attention and regard.

My lords; it is proved by the evidence of Mr. Sicard—it is proved by the evidence of both the chamberlains who attended her majesty at Naples—that it was thought necessary she should have a guard placed near her; and it is an important fact, in the statement of the arrangement of the rooms at Naples, that Mr. Sicard said, that inasmuch as the cabinet opened into the garden, and that garden might be open to the invasion of any person who might attack the property or the lives of any persons in the House, he thought it absolutely necessary, that against that garden Bergami should be placed in the cabinet to protect the life of her royal highness. Without the smallest direction or wish on her part, he is placed in that cabinet adjoining the garden; and there he discharges honourably the service devolving upon him—a most important service; for no man can doubt, who reads the whole of this evidence, that her majesty was surrounded by spies, from the time she left this country, and that her personal safety was compromised by the persons by whom she was likely to be assailed. It is quite clear that her majesty entertained that idea: and, when this person had performed his service well, as her guardian upon that occasion, I ask, whether any thing could be more natural than that when Sicard was sent home, Bergami should be promoted from his situation of page to that of master of the household? —a situation for which he was qualified, for he appears to have been a man in the habit of keeping accounts. And when my learned friend asks me so repeatedly, what motive can be assigned for this sudden promotion, I think I can answer him in one sentence; and I believe every one of your lordships, who have of course fre-

quently the honour of approaching royal persons, will bear me out in saying, that the single merit of saving the trouble of looking over the accounts and controlling the household would be a sufficient merit in a person for the exalted individual to place him in that high situation. It appears, from the evidence of Sicard, that he left her royal highness, because the state of her pecuniary affairs required a journey to England, and that he left her without being dismissed on her part, in order to bring a person into his situation; but that after he left her, this person being so qualified to keep her accounts and protect her person from danger, was promoted to a place for which Sicard, with all his good qualities, would evidently have been unfit. For it is not to be forgotten, that we are dealing with a person of very good manners: I think I may venture to say, from what we hear of the marquis Ghisiliari's reception of him, we are talking of a person who had been in a military situation several years, who might be introduced into society, without any of the appearances of that servile condition which hangs about some persons to the end of their lives, however honourable and however respectable in their conduct. Sicard could not be introduced into society as this person was—passing suddenly from a military station which he had lost by the close of the war, to the service of her royal highness, with the reports which accompanied him from general Pino of his good conduct. But your lordships will not forget, that when one of the duties imposed upon this individual was the hiring and dismissing of the servants of the family, at that moment he entered upon a duty which was sure to raise against him a host of enemies; and consequently, there is not one of the discarded servants who has not some complaint to make—that his wages were lowered, or that something he expected was not paid, or that he had to undergo the persecution of Bergami or his brother; and which would naturally make him jealous and impatient, and angry perhaps, at seeing that sudden promotion to which possibly he might fancy himself equally entitled. But when we come to consider, that this individual was faithfully discharging the duties of that office, I ask your lordships with confidence, whether there is any appearance that her royal highness had any greater reason for promoting any other individual to the station he filled, with so much propriety, and with such perfect satisfaction, looking honestly and fairly to the duties of the station he had to discharge, than this individual whom she did so promote?

My lords; it appears, that one of the virtuous feelings of her royal highness—and it is her great misfortune, that all her virtues are, in the course of these numerous inquiries, turned into crimes—it happened, that her great affection and regard for young children co-operated with the views that perhaps he might have formed of rising in her household. It seems, that at Genoa, the child Victorine was thrown in her way; and nothing could be more natural than that, with feelings and a heart like hers, this child, who does not appear, as the attorney-general opened her to be, the child of Bergami, he being a married man, but who was stated to her to be a child born out of marriage, and therefore wanting a protector, she should take under her protection, and feel by degrees the attachment of a mother towards her. And this is brought against her as a crime—a similar circumstance to that which, in 1806, led to the inquiry which then took place, most properly, I admit; for then there was a possibility of a doubt being thrown upon the succession to the Crown—a possibility which did not exist in the case to which I am now alluding. Then, if this individual was to be promoted to the situation of chamberlain, nothing could be so correct, nothing could so go the proof of innocence and the denial of guilt, as that that promotion should be openly and publicly made; and, I say, it became absolutely necessary, if her majesty was to preserve her consistency of character, that the individual who was to fill that rank in her household should appear in that rank and occupy the high station to which he was promoted. What would have been said, and justly said, if, at the time when these supposed suspicious appearances were going forward, he had still been kept a courier; if he had skulked in the kitchen, and had never appeared in the parlour in the course of the day, but had been introduced in the night, for the gratification of a disgraceful passion, when no person was there to witness it? What would have been said if, when she went on board the Leviathan, she had concealed from captain Briggs the fact that this person occupied a high station in her service? What would have been said, if, when she went on board the very same ship in which he had filled a humble situa-

tion, she had dismissed him from her table —she had said, "Captain Pechell must not see you. You and I may enjoy our hours of stolen lust; but I must not show you in the sight of English witnesses, that favour which I have shown you in the sight of Italians alone." My lords, I put it to your lordships whether this was not the only course which an innocent person bold and firm in her innocence, could have pursued upon that occasion. And then, my lords, we are told, that he is loaded with titles, with honours, and with orders. He becomes the baron della Franchina: and how his title is purchased or obtained, we are at present in the dark. But your lordships will not suppose, that those of the continent are like those which can be traced to Runnymede, or the early period of our own history. They may be purchased for a few hundred livres, and without trouble: it is more a negation of rank not to have them, than any great distinction to enjoy them; and if her royal highness was to place this individual openly in a high situation about her person, it was perfectly fit and proper that some such trifling addition to his title should be made as that of the Baron della Franchina. Your lordships are aware, that these titles are not considered so high upon the continent—that the honours of rank are not kept up so strict and pure, as they are in this country, and perhaps in Spain. In the course of our numerous correspondence with persons abroad, we have received letters in which I believe every one of us have been dignified by the title of "My lord;" and particularly our excellent friend, Mr. Vizard, was requested by a volunteer witness, who was desirous to come and testify in behalf of her majesty, to obtain rooms for him in an hotel "as near as possible to his lordship's palace in the Fields where he holds his chambers."

Now, my lords, there is another offence, another crime, which appears upon the face of this Bill; and that is, that when this person had the control of her household, his relations were introduced into the service of her royal highness. My lords, I cannot conceive any thing more natural or more laudable. It appears perfectly in the spirit of nothing but extreme imputation to make that any thing like a charge against her royal highness. What did she know of the servants? They were hired by her maitre d'hotel. Does it appear that, up to this moment, she knew that the stable boy that was working in the court yard, or those persons acting in the lower situation of her household, were the relatives of Bergami? There is not the smallest proof, that the fact was ever brought to her knowledge. And if the thing was done by the maitre d'hotel, he was doing rightly towards his relations, and only incurring the displeasure of those who were removed, and thus raising enemies to her royal highness in consequence of their discharge. But there was no mystery in this: there was nothing like a mystery in the promotion bestowed upon this man—I think prudently, I think properly, I think his elevation is well and fairly accounted for; and it appears to me, there was no one individual who could have been with so much propriety placed in that situation in the establishment of her royal highness, as that individual whose elevation is almost the only fact of supposed guilt that we have now to contend with.

Then, my lords, between the periods to which I have alluded—between the leaving Naples and the going on board the polacre, he has become her chamberlain; and it is in that character he has to attend constantly on the person of her royal highness: it is his duty to guard her by night; to attend her by day; to be constantly within call; to be always at her command: and this being regularly done, without the least attempt at disguising it from the eyes of any of the persons who surrounded her royal highness, I think it is too much to impute to that fact alone any thing like the consequences which my learned friends have endeavoured to draw from it.

My lords; I shall take the liberty of recurring a little to that part of the evidence which relates to the polacre; because I apprehend it is almost the whole of the case upon which my learned friends will now have to rest. And, my lords, it may be proper to state, that I certainly did not yesterday do justice to the case upon that subject; because there is a witness connected with it to whom I did not allude, and who, so far from leaving it to vague inferences and surmises, that a criminal connexion took place upon that occasion, I think has endeavoured to make out the distinct fact as having happened within his own knowledge, and that in a way to which I will now direct your lordships attention. The witness to whom I allude is no other than Majoochi; and you will find that it was not thought sufficient

to call upon your lordships to pronounce a verdict of guilty upon the suspicions that might be excited from the position of the tent and the beds, but that he was also to be called to prove the fact of a criminal connexion having taken place between these parties; which I should therefore have stated as one of the overt acts my learned friend was to prove. I think my learned friend did not open it. I do not know at what moment Majoochi might throw in that important fact. It is at page 26, and when he says he was sleeping in the cabin directly under the tent: "Did you ever, on any occasion at night, while the princess and Pergami were in the tent hear any motion over you?" "I have heard a noise." "What did that noise resemble; what did it appear to you to be?" Why, he says, it appeared to me to be "the creaking of a bench:"* and then with that admirable talent for mimicking which he possesses, he gave us precisely the sound; from which your lordships are to infer, that something very criminal took place in the tent immediately over the cabin in which he stated himself to be sleeping. This is a parallel to the extraordinary power of eyesight he possessed at Naples, where, with his eyes half shut, he saw this lady pass four times through his room, as if in order to let him into the secret of her going into the room of Bergami; and now he is to make your lordships believe, that he heard that kind of noise which should lead your lordships to think they were in criminal intercourse.

My lords; it is necessary to look a little more to this part of the case; and it is rather unfortunate for the case which he states, that he represents himself to have been upon a sofa in the cabin, and that it is perfectly clear, from the evidence to which I will allude, that there was no sofa in the cabin on which he could so sleep. Your lordships will find, that Paturzo states, in page 109,† that so far from sleeping in the cabin, Majoochi slept in the hold. It seems he was subject to sea-sickness of a very painful kind, and that the place provided for his reception was the hold below the cabin. Paturzo does not state, that he threw himself down as a sick man who did not know what to do with himself, but that there was actually a hammock slung for him in the hold, and that that hammock was his distinct place of repose. So that I think the probability is, that instead of sleeping in the cabin, he slept in his hammock in the hold. But when he says he slept upon a sofa in the cabin, I must refer to lieutenant Hownam's evidence, in page 708, in which it is stated, that there were only four sofas in the ship, that two of them were lashed together in the cabin of the princess and that the other two were in the cabin of the countess Oldi.* So that he must have got access to one of those rooms, of her royal highness or the countess Oldi, withdrawn a sofa, and placed it in the cabin under the tent, for the purpose of lying there to overhear this circumstance. My lords, am I to be called upon to disprove this fact more completely? I cannot. It rests upon his evidence. It is a sort of twin fact to that stated to have occurred at Naples at the same time that he does not state himself to have witnessed any of those acts of indecency on board the ship, which are alone stated by the captain and mate, who have come from Messina to make their fortune by such statement.

My lords; I adverted yesterday to the evidence of lieutenant Flinn, that he believed that Bergami slept below in the cabin in the voyage from Jaffa to Syracuse; and it is very remarkable, that, from the evidence in support of the Bill, the belief of captain Flinn derives considerable support; for in p. 109, Paturzo is asked, "Where did Pergami sleep during the voyage from Jaffa?" to which he answers, "There were two beds under the tent, and when the tent was opened, it was seen that upon that small bed was Pergami, and on the sofa was the princess; when the tent was closed I had no communication with the part of the ship belonging to the princess, therefore I do not know." He is next asked, "On the voyage from Jaffa, had Pergami any other place to sleep in but the bed within the tent?" to which his answer is this: "When the princess and Pergami slept under the tent I have not seen them; but what I know morally is, that the princess and Pergami slept under the tent, because there were horses on board, which made a great deal of noise, and they said they could not bear to sleep below." Then he is asked again, "Where were the beds placed during the voyage from Jaffa, which the princess and Pergami used, as described by you in the

* See Vol. 2, p. 823.
† See Vol. 2, p. 903.

* See p. 502, of the present Volume.

voyage from Tunis?" and to that he answers, "On the sofa there was nothing else but the single mattress of the princess, which was doubled, and the other mattresses of the princess were placed on the bed, where they had been placed at the beginning, below." Then, my lords, the next question and answer are what I particularly wished to draw your attention to. "You stated, that the further part of the cabin was divided into two; in one of the rooms so formed slept the princess, and in the other countess Oldi; and the bed of Pergami was placed in the dining room; where were those two beds placed during the voyage from Jaffa?" "The bed of the princess remained there where it was; as to the bed of Pergami, when he got up, it was rolled up; for they had other things—their luggage; for the bed of Pergami had not a bedstead, but was put down on the planks of the corridor, and it was rolled up in the morning; but I never have paid attention to see whether the bed was there or was not there."* So that that is perfectly consistent with the account given by lieutenant Flinn, that the same distribution, with regard to Bergami, might continue in the voyage homeward as had been made in the voyage outwards, and that that bed which had been occupied in the dining cabin in the one voyage, might continue to be occupied by him on the other, and I have here a witness who will be considered on the other side most unexceptionable, and from whom I am glad to derive any admission in favour of her majesty. I refer to the witness Louisa Demont, who, in page 292, has this question put to her: "What became of the bed that had been occupied by Pergami in the dining room?" "I do not recollect." Now I do infer from that, what lieutenant Flinn infers, that the same arrangement took place outward and homeward, and that it was perfectly possible for Bergami to have slept in the dining-room on the one voyage as he had done on the other. My lords, it would be a good deal for me to admit, from the fact captain Hownam states, of his having seen Bergami and Flinn handing down her royal highness from the tent, that he slept there every night. In fact, if I am to take the statement of lieutenant Hownam founded on hearsay, I must take it altogether; and I find that his hearsay applies equally to other persons of the suite, who, he has heard and believed, slept under that tent with her royal highness. My lords, what can be more natural, than that when the weather was calm and fair, some of the female attendants, if they kept their health and were not disordered in their stomachs, should remain under the tent with her, but that when there was the smallest appearance of a storm, or alarm of pirates, or a fear of the crew not being to be trusted (not very unusual in those seas), that Bergami should be directed to remain near her, he being, from his situation, constantly about her person?

My lords; it is asked, would not lieutenant Hownam or lieutenant Flinn, have been equally good protectors? Lieutenant Hownam says, "I have no doubt we should."* But, in case of a squall, those two individuals would have been wanted elsewhere: it would have been their duty and their interest, to have taken the vessel out of the hands of the Sicilian mariners; and to have committed it into the hands of Englishmen, who are so much more competent to the care of vessels; and therefore, it was proper, that some other individual should be in attendance upon her—not those individuals who might be required elsewhere, but some person who might be able to render her that assistance, which her situation might require. It is, in evidence, that her royal highness never pulled off her clothes at night, nor put them on in the morning, during the whole course of the voyage. She sometimes changed them during the day, but not at night, or morning, in that tent. I feel no doubt, that the statement of lieutenant Hownam, which he has equally from hearsay, that the individuals attending upon her royal highness in that tent, were changed, is correct; but there is nothing to negative the fact of Bergami having slept in the cabin, as he had done before: on the contrary, the evidence of Paturzo goes a great way to prove, that that was, at all events, occasionally the fact.

My lords; a great deal was said about the bath that was taken in the polacre: and, if that is shown to be an impossible thing—if it is shown, that the account given by one of the witnesses, is contradicted by the other; and that she who contradicts Majoochi, Demont, credible in no other part of her testimony, must be credited in this, because she states a

* See Vol. 2, p. 903.

* See Vol. 2, p. 1144.

mathematical fact—then, my lords, the fact about this bath is entirely put out of the question; because, to suppose, that Bergami was below stairs, in the room with her royal highness, when it is proved that there were women about, and that Demont was ordered to attend her at the moment, would be proving something quite ridiculous. Here is a lady of forty eight years of age, travelling in a polacre in the Mediterranean sea, attended by a person whose duty it was to attend her; and you are to believe, that a criminal conversation took place, because Bergami prepared the bath for her, and sent her maid servant to attend her, with her linen. after that had taken place! The natural place of taking the bath would be, not in the inner cabin, into which it could never go, but in the dining cabin, where curtains might be drawn, and where screens might be used; and where he might be, as persons are, in the baths at Paris, in the next room, without any personal contact between the man and the woman; and without the possibility of the man seeing what the woman was about at such a moment. Now, the witness whom I shall appeal to for that purpose is, I think, Paturzo. My lords, I am extremely sorry to be, for a moment, deficient in turning to these numerous facts, but I am sure, I shall receive your lordships indulgence, upon this as upon every other occasion. But it strikes me, in passing along, that these Sicilian witnesses have thought fit to state, that when her royal highness and Bergami were both in bed, they could see one another. This appears in page 95 of Paturzo's evidence, and p. 118 of Gargiulo.* It is a little remarkable that when Demont comes to be examined to that particular fact, she does not confirm the point of their being able to see one another, but she only states, that on one particular occasion, she heard them addressing one another—a circumstance which, on board a ship, I take to be of no uncommon occurrence between persons lying near each other; and which never, I believe, before, was esteemed to raise a presumption of guilt. My lords, at page 118, Gargiulo is asked, "What kind of bed was it, that the princess occupied; was it a single bed, or was it a double bed?" To which he answers, "Two sofas joined together, that would make together six palms and a half; it was about the breadth of six feet and a half." That is the size of the bed as proved by Gargiulo; and Paturzo proves the size of the rooms, which I will refer your lordships to in the course of a few minutes, when it is pointed out to me.—I am reminded, that on board the polacre, there is one contradiction to Majoochi—if it is worth while to state any contradiction to him. He denies that there was a communication between the cabin in which her royal highness slept, and that in which the countess Oldi slept. That is contradicted by the evidence of Paturzo, and the Plan which he drew at your lordships bar, and which appears upon the Minutes.*

My lords; the next case to which your lordships attention was called, in the opening of my learned friend, the attorney general, was a case to be proved by Sacchi, of his arriving in the night, and of Bergami coming to him out of her royal highness's bed-room: from which, undoubtedly, it might be inferred, that he was in that bed room when Sacchi arrived, and that there had been something improper taking place. But when we come to look at the evidence—I do not now observe on Sacchi's credit—but when we come to look at the evidence, it by no means makes out the statement.—For, so far from saying, that Bergami came from the room of her royal highness, he says he came from a room of which he did not know who was the occupier; and therefore it is impossible to infer, that her royal highness was there. He says, "I returned immediately after midnight. I dismounted from my horse; I went into the kitchen, where I found a footman, whom I asked where M. Pergami was. I mounted the stairs, and went into the anti-room of the apartment of Pergami. I found a servant of Pergami asleep; and I went towards Pergami's bed-room: finding the door open, I went in, and saw the bed of Pergami tumbled, but there was nobody in it." Now, I will just observe, there are two servants of Bergami mentioned, neither of whom is called to confirm Mr. Sacchi upon that occasion, and of whom no account is given. The examination then proceeds: "I went away, and in going away, I heard a noise on the opposite side, and at the same time I heard 'Who is there?' Then I knew that it was the voice of Pergami, to whom I

* See Vol. 2, p. 891 and p. 917.

* See this Plan, at Vol. 2, p. 904.

answered, that it was the courier returned from Milan. Pergami told me that there was no such necessity to give him this answer. He was dressed in his dressing gown. I saw only about his breast, which was unbuttoned or untied, and I saw nothing else but his shirt. I saw him in a room where there was a door opposite to the door of his room."—"Did you see where Pergami came from?" "I could not see it, on account of the darkness."—"Where did that door lead to which you have mentioned, which was opposite Pergami's room?" "It led into more rooms."—"Who occupied those rooms?" "No one."—"Do you know what room was beyond those rooms? Do you know where the princess slept?" "I do not."—"Do you know where the princess's bed-room was?" "I do not."* And from this ignorance of the necessary witness, to prove, that this individual came out of the princess's bed-room, you are to infer, that it was the princess's bed-room—when he is perfectly unable to state the facts on which it is founded. But, in the subsequent page, that defect is attempted to be supplied, by showing, that at a later period—how much later does not appear, for there is no date given to either of these facts—when this witness returned with a letter, Bergami was seen coming from a place near that from which he was seen coming on a former night, and that near that was the room of her royal highness; but, as it happens in the very same page, that witness states there was an alteration of the bed-room of the princess of Wales, at the Villa d'Este; and, as no date nor time is given to that alteration, I ask, whether it is possible, in common sense, to draw an inference, that when he first went with his message from Milan, he saw Bergami coming out of the room of her royal highness? I venture to say, that no rational mind can draw such a conclusion. I think, therefore, that that particular case is entirely got rid of, even upon the evidence as it now stands.

My lords; the evidence is now pointed out to me, in which the size of the bed-room is given by Majoochi. It is at page 90, where he says, in answer to the question, "What was the size of the bed-room?" "Perhaps from here to the first bench (from six or seven feet); a small room. The furniture in that room was a sofa bed, or sofa, where in the morning the cushions were placed when the tent was opened."* So that the room is six or seven feet long, and the sofa is six feet and a half long, and it is in that room that her royal highness is supposed to have taken the bath, and that she is proved to have taken it, if Majoochi is believed, and is not in this instance effectually contradicted by Demont. My lords, it would be a little worth while, perhaps, to make out a catalogue of all these overt acts opened by my learned friend, the attorney-general, and to see where they are supported by a solitary witness, and where they are supported by a variety of testimony. There is a list of sixteen of these overt acts. I am happy to say I have got almost to the end of them. The three first proved by Demont alone, namely, the scenes at Naples, the facts on the Opera night, the facts on the night of the masked ball, and the meeting in the corridor—they rest upon her evidence alone, which is totally incapable of being contradicted, as to those facts she particularly speaks to, from any other quarter; but which, wherever she has given us an opportunity of examining other witnesses,—these witnesses have effectually contradicted. Then there are two facts opened by my learned friend at Varise and Lugano, to which no evidence has been given. The case of Catania proved by Demont and no other person; the case at Savoan not attempted to be proved. The case of the tent on shore is attempted to be turned into a case of guilt by Majoochi and Demont, and by no other witness; but under circumstances which entitle them to no credit. The case at Ephesus is proved by Majoochi alone, and contradicted by several other witnesses. The case to which I have just referred of Sacchi's return from Milan is proved by him alone; and the case to which I am now going to call your lordships attention is proved by Demont, and by that only witness—it is the important case of Scharnitz.

Now, my lords, as that story was told by my learned friend, what could be more clear and satisfactory than the circumstantial evidence he brought to prove that case, as he himself stated it, and I have no doubt believed it. Here is a lady supposed to have gone to bed, to be sleeping in her room, to be disturbed in the night by a gentleman who has been long in her household, who comes sud-

* See Vol. 2, p. 1267.

* See Vol. 2, p. 887.

denly into the room: the maid is turned out, and the gentleman and lady are supposed immediately to enter into that matrimonial connection which is imputed as the result of all the facts of the case. Now, my lords, undoubtedly there cannot be a better case than that; and if this had been a respectable inn; if it had been a place where the comforts of life existed; if there had been no bustle; if there had been no breaking up of the party; if there had been no long delay, which they were all anxious to get rid of; if the lady had, in fact, undressed for the purpose of going to bed, and the gentleman had undressed to go into the same bed—all of which is inferred when we hear of two persons going to bed in the same room—we could never have held up our heads to attack such a case as that, by any other means than by the proof that the witness was entitled to no belief. My lords, we are not satisfied, in this instance, with proving that fact before you: we have placed it beyond the possibility of doubt, that Demont is a witness entitled to no credit; and we charge this upon her, as an additional proof of her malice and her corruption, that she has endeavoured to deceive my learned friends into the belief of facts as criminal, which admit no just imputation of crime, by stating, in general terms, such circumstances as might have been removed by circumstances equally within her own knowledge, if she had not chosen to give the *primâ facie* case alone, and to keep to herself that which constituted the defence against it. My lords, these are the facts. And how are they proved? It is perfectly true, as she states, that Bergami and the chevalier Vassali went to Inspruck, to rectify some mistakes as to passports: it is perfectly true, that they returned in the dark, between two and three in the morning: it is perfectly true, that Demont left her bed; and it is equally clear, from evidence which cannot be disputed and denied, that the whole party were instantly in motion, that there was nothing thought of but leaving the place: and the place was actually left by them all, as soon as it was possible for the unwieldy establishment of a royal personage to put itself in motion, in snowy weather, and under circumstances requiring a great deal of preparation from without. Her majesty was then on her journey to that palace at Rastadt, which she was not permitted afterwards to occupy. She, in the course of that journey, seems to have been received with all the distinction, and all the respect, that her rank and her personal qualities entitled her to receive; but in the course of that evening, in consequence of, I suppose, a mistake in the passports, she was obliged to take up her abode at this very miserable inn, where there were not beds, for the greater part of her suite; inasmuch as there was straw laid for them in the corridor, and it does not appear that any person went to bed at all to repose, even in their clothes, but the princess and Demont. At this late hour Bergami returned; and you will find, in pages 301, 323, and 363, all that is stated by Demont as making out this case: "Who went to bed in that room besides her royal highness? did any body? Myself.—Did Pergami return from Inspruck that night? Yes.—As well as you can recollect, how long after you were in bed? I do not recollect precisely, because I had already fallen asleep.—Did you sleep in the same bed with the princess, or in another bed? In a small bed which was laid on the floor.—Upon the arrival of Bergami, did you receive any orders from her royal highness? Did she tell you what you were to do? Her royal highness told me that I might take my bed and go."* And it appears probable, that she did take her bed and go; for when Vassali came into the room, there was no bed but that on which her royal highness was found sitting, with the child Victorine, ready to start at any period, and actually leaving the place with the first gleam of the dawn.

Whilst upon this point, it is material to refer to the Evidence of lieutenant Hownam, at p. 743. My lords, it is extremely important, as my learned friend reminds me, that in the first case proved by Demont to which I have just referred, there is nothing on the subject of her being dressed or undressed; but you are left to suppose, that her royal highness and her chambermaid retired to rest in the ordinary way, having taken off all their clothes. Nobody could read that which I have just stated, at page 301, without drawing that inference; and it is only at page 323, when she is particularly pressed to state the situation in which they were, that she lets out the fact, that there could be no criminality contemplated or committed; for she states, that her royal

* See Vol. 2, p. 1151.

highness went to rest in her dress; that having reposed in the day upon that bed, she continued upon it until Bergami came with the passports, and that she had immediately put herself into motion. I refer to page 323, where it is said: "Was there frost or snow upon the ground? There was a great deal of snow.—It was a poor inn, an indifferent inn, was it not? A small inn.—You are understood to say, that you were upon a bed in the room of the princess: was it so? Yes.—Had you taken off your clothes? Not entirely.—Had you taken off more than your gown? I do not perfectly recollect, but I believe not." So that she clings to the appearance of undressing entirely, as long as she possibly can. In the first place, you would suppose she was naked; in the next place, that she did not know whether she had taken any thing off but her gown. She is then pressed: "Had the princess undressed? I do not recollect; she was in bed; but I do not recollect whether she was undressed.—Do you remember the dress that the princess was in the habit of wearing at that time? Yes.—Was it not a blue habit trimmed with fur, and so on,"—(a travelling-dress of the most inconvenient description for any improper purpose)—"Yes, there was a great deal of fur here (about the bosom) it was a blue dress."—"Had not the princess gone upon the bed, or into the bed with that dress upon her in the middle of the preceding day?" The answer is, "Yes, she had."—"Do you mean to say, that from the middle of the day when she had got into the bed, or on the bed, she had undressed herself at all?"—which, up to this moment, your lordships are desired to infer from the statement made. She answers: "I saw her royal highness on the bed during the day in that same riding habit."—No longer in the bed, no longer naked, no longer by possibility undressed, but now, on the bed, in a riding habit, she had put on to be ready to start again on the journey.—"Did you see her royal highness take it off at all whilst she remained at that inn? I do not recollect seeing it.—You yourself were upon a bed in the same room with her? Yes.—You left that small inn as you describe early in the morning, did you not? Yes."* And then she is asked, immediately after that, having been let into the secret of the parties considering themselves as on the same terms as husbands and wives, and then turning her out of the room, that they might enjoy their conjugal endearments—she is asked as to the period of her dismissal, and she says, that within a short period she was turned out of her royal highness's service—to which she would have been very happy to return.

My lords; I will make one remark, that perhaps some observation may be made upon the letter of Demont to her sister—as if, in the insincerity to which she was so much subject, she was ready to disclose secrets to those who might be disposed to take advantage of them—as if she was ready to depose to, or conceal, those secrets according to the treatment her royal highness gave her. Take it in that point of view, which I really think, in justice to her, we ought not to believe—but take it in that point of view, and what does the letter amount to? It is neither more nor less than a threatening letter—"I am very poor. I desire you to observe a very strict economy, for I am suffering from the want of it. I am denuded of what I might have laid by in the service of my bountiful mistress. Do not then subject yourself to such things. I am exposed to spies. Gentlemen from London came to offer me a brilliant establishment. I know the meaning of that, and I know that the intention is, that I should depose to those facts against her royal highness of which my learned friends will now say that she was the dangerous depository." Look at the conduct of her royal highness, and say whether it was entirely inconsistent with the possibility of her being in possession of such secrets. Does she send her any money? Does she take any steps to silence her? On the contrary, she leaves her from that time, till that time twelve months, when, Sacchi takes her to the Milan commission, without any promise to receive her back into her service, or any thing like an inducement held out to her to keep such secrets in her own bosom. It is absolutely impossible to suppose that this woman was in possession of any such secrets, even taking that base and sordid view, which is necessary to the case of my learned friend. So far from getting over it, it would show the conduct of an artful servant, and of an innocent mistress. But I believe that the mistress was pure, and the servant free from that sort of deception, until after that time.

* See Vol. 2, p. 1167.

My lords; I will now return to the incident at Scharnitz. If you look to page 718, you will find, that lieutenant Hownam states, that it was necessary to go back to Inspruck for passports.—"Mr. Pergami went back immediately to Inspruck, with captain Vassali, I think, to procure passports."—"Do you recollect at what time Pergami and captain Vassali came back to Scharnitz?—I should think about one or two in the morning, it was very late.*"—At page 743, he is cross-examined upon the same subject, and it would have then been extremely easy for my learned friends, with all those materials for cross-examination which they have, of course, been daily receiving from their important witnesses, Sacchi and Demont, to reward lieutenant Hownam of any fact inconsistent with the statement we make in our defence, and to have compelled him to prove such fact; but, on the contrary, they ask him whether he recollects the town of Scharnitz, whether he recollects the circumstance of Bergami and Vassali going back for the passports; whether there was not a difficulty in proceeding, in consequence of the snow, whether there were not many persons employed to cut a way through; and whether they did not set out early in the morning, proceed to the barrier, and had some material interruption with regard to their luggage? There is not a single question put to lieutenant Hownam to show that that to which I shall call your lordships' attention, as proved by the witnesses acquainted with the fact, is not perfectly correct; and I will now, therefore, proceed to the evidence of chevalier Vassali, at page 937 of these Minutes. And, my lords, in introducing the chevalier Vassali to you, I trust you will not conceive it is any reflection on a soldier, that he has been a private soldier in the guard of honour—that it is perfectly consistent with his occupying a respectable rank in life; for we are all acquainted with the fact, that a person of his gentlemanly and military manners might have very well risen from that situation, and that he is not to be taken to be a person more liable to state that which is not true, from his having risen from that humble situation. You can hardly go into a town on the continent without being told respecting some respectable young man, that he was selected to form one of the guard of honour to Buonaparté or Josephine, or the emperor of Austria, or some other sovereign of the continent. Vassali is asked, "In the course of that journey, do you remember having gone with Pergami from Scharnitz to Inspruck, about some passports? Yes."—"At what time did you set off? We set out after dinner, after twelve o'clock."—"About what time did you return to Scharnitz? Between two and three in the morning; and the moment we did return we went into the room of her royal highness. She was sitting on the bed, leaning, half-lying."—"Was she dressed or undressed? She was covered with shawls or something like it."—"Was any body with her? Yes, there was Pergami, then came Schiavini, and then afterwards the countess Oldi came out of her own room.*"—At the same time he saw the little Victorine sitting upon the bed of her royal highness; and that he saw when first he returned from Inspruck, which Demont thought fit to keep so much out of sight, as she did the circumstance of her royal highness retiring in her dress early in the day, and reposing in that dress the whole of the time she was in the room after his return from Inspruck. In the course of that morning an officer from the police arrived. He spoke to that officer, after which he returned to the room of her royal highness, and he frequently returned to that room. "First," he says, "I returned to give her an account we had arrived; afterwards to see whether she wanted any thing; and lastly to give to her an account of the weather, and that they were clearing the road from the snow." And then he says, "We remained up the whole of the night;" and that all the suit indiscriminately, Bergami and the rest, were constantly passing to and from the room of her royal highness. When he is asked, in cross-examination, how all this length of preparation could be necessary, he gives an answer which I am sure had occurred to the minds of every one of his hearers, that in attendance on a person of that rank and importance, one is upon the alert and in eternal movement. I am sure every man must feel, that nothing can be more natural than that impatience; and that the whole of the statement of Mr. Vassali is consistent with that of lieutenant Hownam, and inconsistent with nothing but that which Demont wished to impose upon

* See p. 508 of the present Volume.

* See p. 939 of the present Volume.

your lordships is most undoubtedly the truth of the case.

Your lordships will not forget also, that though Sacchi was sent to Scharnitz, yet, in the whole course of the examination of that individual, there is no question put to him to show, that the testimony of Demont was correct: on the contrary, he was driven through that town without a single question, although it is perfectly impossible, as my learned friend must see, that the story must not be contradicted in every point, and that Demont stood in such a situation as to require even his support, rather than be left without a support to her testimony.

My lords; the next case to which we go is the case of Carlsruhe. And here it becomes a little important to consider the circumstances under which her royal highness was there living—it is impossible not to look back with regret to the subjects of unparalleled complaint, which that illustrious lady has had to struggle with, through the whole of her married life. She had left the country with a variety of rumours and reports perhaps insidiously and maliciously circulated against her. She perfectly well knew she was surrounded by those who were ready and willing and anxious to destroy her by their artful interference with her concerns; and yet, in spite of all those circumstances, she exposes herself, in the course of a variety of journeys, to no less, I believe, than fifty different inns, on no one of which is there any attempt to impeach her conduct, except simply by the respectable witness Pietro Cuchi and by this young lady Barbara Kress. My lords, it is impossible not to meet a general statement of that kind with the general statement I made yesterday. How can it by possibility be true, if there was an adulterous intercourse carried on between these parties under the raised suspicion of her chamber-maid, that the linen that was employed both about the person and about the bed of those parties should betray no symptom whatever of what was supposed to take place between them? Then, my lords, let me go back to the polacre. There were no bed-clothes; but the body-linen would have betrayed any sort of connexion that could have taken place in the course of the four weeks of the reposing under the awning. But there is not an attempt on the part of my learned friends to extract any such fact from Demont. I therefore infer that the fact is not true; and that she was perfectly aware that if it had been attempted to be proved by her, it would have been effectually contradicted.

Now, my lords, with regard to this fact at Carlsruhe, I beg to call your lordships attention to all the circumstances under which her royal highness was living. My lords, is it possible to doubt, upon this evidence, that from some strange, unfortunate attempt to degrade and destroy this illustrious lady, she was watched by persons in high authority, and possessing great power? How came an Hanoverian minister to have been the first sent to Rome? What possible connexion was there between that Protestant government and his holiness the Pope? What necessity was there for baron Ompteda coming to her royal highness's table but to appear afterwards as her betrayer? and what reason is there, that when a single question is put to any one of the witnesses upon the subject of that name, that it is immediately a signal for some objection being taken, for the mouth of the witness being closed, and for him to be prevented from giving that information which I am sure your lordships feel to be essential to the coming at the truth of this case.

My lords; Majoochi has, by somebody or other, been instructed to say, that he does not even know his name; that the name of Ompteda is to him as unknown as that of the chief of the Sandwich Islands; that he never heard any thing of the kind; that he is perfectly in the dark on the subject. Circumstances are brought to his recollection at various times: "Did he not frequently dine with her royal highness? Not to my knowledge I do not know the name. Did not he remain there two or three days? Not to my knowledge; there was a Prussian baron, but I do not know his name." And Demont also concurs in stating, that though she had heard the name, she never heard of any thing justifying the supposition, that he was filling the honourable situation of spy; that she never heard of locks being picked, or any thing of the kind. Why, my lords, let us look at the evidence that is suppressed and kept back from us upon this occasion; for your lordships are not to forget, that we are told by Restelli, that most active agent of the Milan commission, that he accompanied Mr. Cooke the head of that commission, to Frankfort for the purpose of seeing an im-

portant witness of the name of Maurice Credi, a witness who had been a servant in the family of her royal highness, and who is described by Mr. Hownam to you, as having, in the course of that service, confessed, that he was urged by Ompteda to pick the locks and to possess himself of the letters of her royal highness. Why was not Credi called as a witness before your lordships to explain these mysterious transactions? He was a servant in the family during the period when these things were supposed to have been going forward. He was a witness capable of telling as much, probably, as any of those persons have told, and perhaps as willing to tell it. He would have been compelled to admit the whole statement of that case, which it is essential to public justice to have sifted. He was at Frankfort to be examined by Mr. Cooke, but he is not here to be examined by my learned friend, and to be cross-examined by us. There is another witness of the name of Annette Preising, who is in this country; who was in the service of her royal highness during the whole of this time; who was seen by Restelli, and who is not called as a witness before you though proved to be in this country, and though my learned friends have been so anxious to lay before you every thing which could be proved on either side, without reference to the bearing of the evidence, wishing you should have the whole and draw your own impartial conclusion from the whole.

Now, my lords, with regard to Majoochi, you cannot have forgotten the circumstances under which he denied any knowledge of Ompteda. I think it was on the second day of his cross-examination. He states, with the utmost clearness, that he has no knowledge at all about him, that he is quite a stranger to him, that he has nothing to say upon the subject of any thing he ever did, and he does not even know his name. Now, I introduce to you, upon that subject, the evidence of William Carrington, and in introducing that witness to your lordships, I beg to call your attention to the different situations, in which my learned friends (who say we have great advantages in this case) and ourselves are placed. William Carrington has no sooner left this bar, with the universal confidence and approbation, I am quite sure, of every honest man who saw and heard him give his evidence, than the materials for his cross-examination are laid by the first lord of the admiralty. The ships books are searched, his captain is called to town, he is cross-examined with the possession of these full materials, and every act of his life is sifted with the utmost minuteness. Do I complain of this? By no means. If it were not irregular, I would tender my thanks to the noble lord who, with the greatest ability, conducted that cross-examination. It redounded to the credit of the witness concerned. I say of that man what some foreign writers have said of this country, "You may find gentlemen in the lowest classes of society." I say, that in whatever part of society that man's lot is cast, nature made him a gentleman; and his evidence will not be disputed by any man who deserves that name. At page 538,* he states to your lordships the conversation he held with Majoochi upon the subject of Ompteda; at pages 555, and 579,* he undergoes the strictest cross-examination upon the whole of his statement; and I will venture to say, that any thing more clear, more satisfactory, and more convincing, was never drawn from any witness who appeared in a court of justice. It is perfectly clear, that this Majoochi, who comes here instructed to deny his knowledge of the existence of Ompteda, was so perfectly aware of his existence and his history, and his supposed crimes, he declared that the baron Ompteda, by corrupting Credi had brought all the servants under suspicion, and that if he met him on the road, he would kill him like a dog. There was a most strict and acute cross-examination. The result was in the highest degree satisfactory. After Carrington had undergone his two or three cross-examinations, that paper was put in which proves he was a midshipman as he describes himself, on board the Poictiers, which he left at the period when sir John Beresford declared, that he never parted with a sailor with so much regret, for he never knew a more excellent man in the service.

Now, my lords, what an advantage it would have been, supposing there had been in the whole life of this individual, one single blot in his escutcheon!—what an advantage my learned friends would have obtained over us, when their witnesses are all foreigners, when they come from all corners of the world, when we have no admiralty-books to refer to, when we

* See p. 395 and p. 402 of the present Volume.

know nothing of their governments, but their ceremonious grant of every witness wanted for the Bill, and their unceremonious refusal of every witness we wanted for our case! My lords, an observation was made at the outset of the case—"they are foreigners; we cannot know them; if they are entitled to the greatest credit as their evidence appears, still there may be facts which would destroy them, if they were known." You see, my lords, what materials may be produced for cross-examining witnesses of this sort, who are natives of this country; but the foreigners are protected by the very fact of their being foreigners; and it is impossible for us, during the period of this protracted trial, to show them subject to discredit. It is therefore, most fortunate, that out of their own mouths, looking to the testimony—it is most fortunate for the cause of justice and of truth, that we are able to discredit them; because the means of doing so, from the previous history of their lives and their campaigns, are not, and cannot be, in our reach. These persons are so contradicted as to leave, I am sure, the strongest suspicion, that the story told by Demont is perfectly untrue; that the story told by Majoochi is perfectly untrue; and that there were individuals base enough to intrude themselves into the intimacy of her royal highness, for the purpose of distorting those innocent actions which an innocent person would be perhaps very careless in pursuing.

Now, my lords, we come to Carlsruhe; and, under circumstances like these, when we find there are no less than three ministers employed in bringing evidence to this country of facts which took place, and when we find that one of these ministers receives her royal highness into his chambers at the inn, and the moment she leaves those chambers, is found running about the rooms, searching for any thing that might condemn or convict her—I think it would not be uncharitable to say, that they thought they had her in the trap; that they thought they had now a witness to depose to something from which suspicion might be drawn, and that it was their own fault if they did not find in the chambermaid at Carlsruhe, a willing instrument of their plans. Now, what does she depose? She says, that she went one evening with water to the bed-room of Bergami, and that she saw the princess sitting upon his bed. That, I apprehend, will be found in page 183; and, my lords, it is by no means immaterial to keep in view that which I took the liberty of suggesting,—that is, the total want of support that almost every individual witness is left with stating his own case;—each witness proves his own case, and nothing more; and it is quite remarkable that Mrs. Kress, who proves her case, receives no confirmation in any part of it, but receives a direct contradiction of it from the courier Sacchi: for she states, that the courier had arrived; and then, she says, she placed this broad bed to which I allude.—"What sort of a bed was placed in No. 12? A broad bed.—Was that bed in No. 12 before the princess arrived? or was it placed there after her arrival, and in consequence of that arrival? There was another there before, but I had been ordered to put a broad bed; I had been obliged to put this broad bed in before the princess of Wales arrived.—Had the courier of the princess of Wales arrived before that bed was placed? The courier had arrived; and then I placed this broad bed to which I allude.*"—Now, it is perfectly clear, that the thing meant to be inferred was, that the princess had sent her courier forward, and that knowing that the beds at Carlsruhe are particularly small, she ordered this broad bed for criminal indulgences. But, if your lordships will turn to page 435, you will find from Sacchi's evidence, that no change was made by him, especially at Carlsruhe:—"In the course of that journey what was the general disposition of the bed-rooms of Pergami and her royal highness?—I continued to distribute the lodgings as far as Carlsruhe; but when we arrived at Carlsruhe, there having happened the same thing that had happened at Turin, that is to say, the change of the bed-rooms, I did not meddle with it any more during the rest of the journey, leaving to her royal highness and Pergami to choose what rooms they liked best.†"—So that, so far from his having come, and ordered a bed, which was placed in the bed-room, No. 12, by Kress, he states, that after he gave the order, the arrangement he previously made was actually altered by his principals when they arrived. Now, that is one circumstance to show, that where these parties are contrasted and compared together—wherever they give an opportunity for the contradiction, that contradic-

* See Vol. 2, p. 970.

† Ibid, p. 1271.

tion will appear in the course of the evidence they give.

Now, Kress states, that one night between seven and eight—the minutes she cannot exactly tell, nor does she recollect exactly where the princess and Bergami had dined on that day—upon carrying some water into No. 12, she saw the princess and Bergami in that room.—But, to return, for a moment, to this subject of the change of beds. I only know one way of reconciling this evidence at all. Kress speaks in the impersonal; she does not say, that the courier ordered it, but that the order was given "The courier had arrived; and then I placed this broad bed." You would infer, that the courier had given the order; but you may perhaps infer, that the order was given by baron Grimm, and that it was thought this case of adultery might be much better made out, if there was a broad bed capable of holding two, rather than a narrow one capable of holding one.—But to proceed. She says, that carrying some water into No. 12, she saw Bergami and the princess. Bergami was in bed, and the princess sat on the bed. When she entered, she had seen that Bergami had his arm round the neck of the princess, and when she entered, the princess let the arm fall, jumped up, and was alarmed at the moment; and she then left the place. I would call your lordships attention to this fact, that in her cross-examination she will not venture to deny, that she has stated, that she went into another room to satisfy herself whether the countess Oldi was there, and if she had any doubt, whether the countess Oldi was the person sitting upon that bed. I think the facts to which I shall call your lordships attention, in the evidence of Vassali, will satisfy you that it might very probably be the countess Oldi that was sitting there, but that it could, by no possibility, be the princess. She states in her cross-examination, that she will by no means swear that she had not said, that she had some doubt whether the countess Oldi was the person sitting upon that bed. Therefore, I should infer a most gross attempt to introduce a case against the princess, under circumstances in which a doubt remained upon her mind. May I draw your attention to page 209.* "After you had seen the person you took for the princess in the evening in Pergami's room, did you go to see whether the countess of Oldi was in her room? No, I carried water immediately to No. 5, and there they were standing; at No. 5, the countess lodged." So that, in point of fact, for some purpose or other, she chooses to say for that of carrying water, she did go to that room of the countess Oldi: "Did you not go to No. 5, in order to see whether the countess was there? Yes, I went just there.—Did you not go there for the purpose of seeing whether the countess was there? I went, and saw just that it was the princess.—Did you not go there for the purpose of seeing whether the countess was there? No, I went not there; I just carried the water there.—Will you swear you did not go to that room, upon the oath you have taken, in order to ascertain whether the countess was there? I went just there to carry the water, because I must do this, as I did it every evening."—So however, she did.—"Will you swear, by the oath you have taken, that you did not go to that room in part for the purpose of ascertaining whether the countess Oldi was there? I cannot say this; I did not go for that purpose: I have never thought that I should be asked about this." So that she knew what she was to be asked to; she knew what she was to prove; and all the surrounding facts, upon which depend the character of the transaction, she has cautiously put out of her mind. Then, the other interpreter a little varies the phrase, "I have never had any thought about this: I never thought that I should be asked about it." And then, upon a further cross-examination, "Will you swear upon the oath you have taken, that you have never told any person that you did go to the room of the countess for the purpose of seeing whether she was there or not? I cannot recollect it; I have no thought about it, whether I have said it to any body.—Will you swear that you have never had any conversation with any person about your going into madame Oldi's room that night? I can swear that I never had a conversation with any body about this matter, namely, that I went there for the purpose of ascertaining whether the countess Oldi was there or not."

Now, my lords, I do think that upon these facts, it is impossible not to see, that, if there is any truth in the circumstances to which she has deposed, when your

* See Vol. 2, p. 1084.

lordships come to look at the other parts of her evidence, in which she states first of all the circumstances from which this inference is to be drawn—I do think, that so far from furnishing any inference whatever against her royal highness, they will only tend to show more clearly the nature of the practices which have been carried on, in every part of the world, against her royal highness. This witness went to Hanover, and there she saw Reden; she went to Frankfort, and there she saw another gentleman. Her recompence was "little, very little"—which is the answer given by the three witnesses who have acknowledged that they had received any thing, the captain, the mate, and Barbara Kress, but they all know that they are to expect but little, unless they swear up to the mark; and your lordships will see the nature of the compensation she has received already for that which she has already performed.

My lords; there is another circumstance from which something is inferred —that one day she found a grey cloak in the bed of Bergami, and that afterwards she saw that grey cloak on the shoulders of her royal highness. How it came into that bed, and whether it is the same cloak she saw upon the shoulders of her royal highness, I think appears rather doubtful; and, if the circumstance of the cloak furnished a more conclusive inference than such a circumstance can furnish, the evidence of it is not convincing to any ordinary mind. Then there is a third fact, to which I have already alluded — a fact of stains which appeared upon the bed. Now, it is left in the dark at what time those stains were found there. At page 188,* the whole of that evidence is given, and the day and the time are left entirely unproved, except that it was in the morning of some day when she was making the bed, when those stains were found: whether it was immediately after or before the time that she saw any body sitting on the bed, or the time that she found a cloak in the bed, is left uncertain; and when you come to see what she states upon her oath, I am sure your lordships will see that she states that which is not to be believed. First, the condition in which they were found: it is perfectly impossible that a thing of that sort should at once have colour, and at the same time be in a state of humidity; that I take to be perfectly impossible. And then, when she is asked, being a married woman, as to the state of those stains, she says she has not inspected them so nearly, but that she has seen that they were white; that she has made all the beds in the house; and then, when asked to the appearance of those stains seen in this bed, she has the impudence to say—being brought here to prove nothing material besides, "You will pardon me; I have not reflected on this; I have had no thoughts on it whatever." Then, if she had had no thoughts upon it whatever, why was this compensation given to her, and this force applied, and this reluctant witness brought at such an expense to speak against the Queen? If the thing be true, she ought to have declared it and would have declared it. Can any man believe, that, having made up her mind to appear here as a witness, she would thus suddenly be seized with a fit of modesty, and be incapable of telling that which she came to tell? It is trifling with the credulity of mankind to believe this witness, even if encumbered with no contradiction; and the blushes on her face, which were charitably ascribed, as she was a witness against the Queen, to the last remains of expiring modesty, may be rather attributed to the circumstance, that she was attempting to impose upon this assembly, by the statement of such a falsehood. She has withdrawn herself from it as much as she could; that she has been suborned to swear to this fact, knowing it to be perjury, I shall now make out by the statement of the evidence adduced against her.

My lords; at page 717, Mr. Hownam states, that he went to Carlsruhe; that they were received by the grand chamberlain on her royal highness alighting from her carriage, and a chamberlain was appointed to attend her always after. The name of that gentleman was the baron d'Ende. Her royal highness passed her time while she was there almost always at Court, or in the family of the grand duke; that during her royal highness's stay at Carlsruhe, she usually dined at the Court, or else at the margravine's, the grand duke's mother; that her royal highness mostly supped out at the grand duke's, and he thinks once at the margravine's; that there were always on those occasions parties assembled to meet her royal highness, except the first day's

* See Vol. 2, p. 973.

dinner at the margravine's. This outcast, who was supposed to be bringing disgrace upon the family to which she belonged, and to be received by no one of respectability, dined out every day, either at the palace of the grand duke or at the margravine's. Mr. Hownam is cross-examined at page 767*—not cross-examined indeed, but some of your lordships put questions to him upon this subject, the cross-examination having passed it by: "You have said, that at Carlsruhe the princess dined with the grand duke, except one day that she dined with the margravine; did you dine in company with her royal highness on those occasions? I did."—"You have said also, that she supped at the grand duke's, and also at the margravine's; did you sup in company with her? Yes, I did."—"At what o'clock at that court is the dinner? I positively cannot recollect that."—"About what hour? I do not recollect the hour sufficiently to be able to mark it."—"Have you any recollection of the lateness of the hour of supper, and the evening parties there? I cannot say to what hour they lasted, they lasted late in the night, probably twelve o'clock."—"Can you of your own knowledge say whether the princess had time to return home between dinner and supper; between the dinner amd the subsequently going to the other house, or supping at the same house? I should imagine yes."—"Did she, to your knowledge, on any one of those days, return home between the dinner and the supper? I do not recollect that."—"Will you undertake to say, that she did not? I will undertake to say, that I do not recollect the circumstance; if I had the smallest recollection of it, I have no end in keeping it back, in withholding it."*—For which last assertion, I am sure every man gives lieutenant Hownam full credit. And then Vassali, at page 935,† puts this question beyond all possibility of doubt; for he says, they arrived at Carlsruhe on the 25th of March, staid till the 30th, and that on every day, they dined alternately with the grand duke and the margravine, and passed the evenings upon all those occasions, in company with those distinguished persons. He states, that on one of the evenings Bergami complained of the head-ache, and caused his sister to accompany him to the inn, where they continued for some time, during which her royal highness remained with the grand duchess, and the witness remained there too. They staid till a late hour in the evening, and he says, that he himself performed in some concert—and sang with the grand duchess. Then he goes through the whole history of their dinings and their suppings. He says Madame Oldi returned with her brother, because he had the head-ache; and then, he is asked, at p. 944, by one of your lordships, to fix the time; and he answers that question in such a manner, as to give the most decided proof, that he was stating the whole truth precisely as it occurred to his mind, and not for the purpose of meeting any supposed case against her royal highness. "At what time did the evening parties, the conversazione commence?" His reply is, "There was no fixed hour."—About what hour? About half-past seven or eight."—"Where was it you dined at Carlsruhe the first day? At the margravine's."—"Was Pergami there? Yes."—"Where did you dine the second day? At the grand duke's."—"Did Pergami dine there? Yes."—"What day was it after your arrival at Carlsruhe, that Pergami, you say, was taken ill? On the second day."—"About what time was he taken ill? After dinner:* from half past four to five o'clock."—"About what hour did you return home? I believe between half past seven and eight." Now, as that case stood at that moment, it would almost have appeared to be a confirmation of Kress; and I believe it was one of your lordships who put that question again to him, and got an explanation, from which it appears, that what Kress stated, could by no possibility be true: not because the princess and Bergami might not be at the inn about the time on the second evening that this woman states, but that he accounts for the whole of that time; her royal highness being in a state dress, having come home from the dinner at the grand duke's, being in the saloon, and going out again to the margravine's: he accounts for the time, so as to leave no possibility of his being in the bed-room, and her being on the bed, and his placing his arm round her back. "Are you rightly understood, that on the second night of her royal highness's residence at

* See p. 550 of the present Volume.
† See p. 938 of the present Volume.

* See p. 944 of the present Volume.

Carlsruhe, she returned from Court to the inn at between 7 and 8 o'clock?" He replies, "Between 7 and 8 o'clock," and there the matter is left. Then again, at p. 961, "When her royal highness returned the second night she was at Carlsruhe from the palace to the inn, did you accompany her? I did not."—"When did you go there? When she returned home between 7 and 8."—"That is the time as to which you are asked; did you accompany her? Yes, between 7 and 8."—"Into what room of the inn did you accompany her royal highness? The saloon."—"Whom did you find there? Pergami and his sister, and another person of the suite came to meet her?"—"Was Pergami dressed at that time? He was in a uniform."—"How was her royal highness dressed at that time? In a dress of great splendor."—"Did her royal highness remain for any time in that room which you call the saloon? Some time; then we went to the margravine's."—"Did you all go together? Pergami accompanying her royal highness as well as yourself? Yes."—"How long did you all remain at the evening party at Court after that? Till about 10 o'clock that evening." So that there is every evening during the whole of her royal highness's residence at Carlsruhe, most satisfactorily accounted for; and it is utterly impossible that the story of Kress can be true, unless Vassali has stated what is false; which I do not think any body would impute to him. My learned friend ingeniously asked him where they dined at Munich in the course of the same journey. The answer is, that they dined at the table of the king and queen three or four times in the course of ten or fifteen days, and the other days they were living at the inn. That is very far from being a circumstance to impress itself on the memory, as the circumstance of their dining out regularly with the relations of the Queen successively with the one and the other, and on the other day going to the baths at Baden, where they passed the night. On that nights of course, this circumstance spoken to by Kress cannot have taken place; and I think there is no possibility on the night, on which they were there, of that story being true; and that being disproved throws, I think, a great deal of suspicion upon the other parts of the case.

But, my lords, if this female waiter is to be considered as effectually contradicted in her statement, what shall we say of the male waiter, who, probably aware of the circumstance that he might be contradicted, places his eye at the key-hole at Trieste, says that he saw Bergami going in a state of undress from the room of her royal highness to his own, for three or four out of six mornings? What shall we say of that witness who, to take up the gainful trade of a witness, says, they remained six days at that inn; and therefore in order to make his case complete, he does not, like this young lady, stick to a particular time, lest he should be contradicted in that, but says it was the habit and the practice, and that on every one of these three or four mornings he saw the same thing take place? My lords, I shall not attempt to describe the man: if his was a face to be forgotten, my learned friend's portrait of him could not be forgotten. We had argued on the probabilities of the case, on the likelihood that false evidence would be given; and these probabilities are entitled to a very great consideration; particularly when it is found that out of the very numerous places in which her royal highness is stated to have conducted herself so unguardedly, there are only two witnesses called to swear to facts, who both are subject to the very substantial contradiction which is presented to them. The evidence of Pietro Cuchi is to be found in p. 167. There is no question put to Sacchi or Majoochi, how long they remained at Trieste; but it is left to this man to state the fact, and this is to be made out by the number of times: "How many times did you see that during the six days that the princess was at Trieste?" "Three or four times."—"Describe the manner in which Pergami was dressed at the time when you saw him so coming out of the room of her royal highness?" "He had a surtout, made according to the Polish fashion, which had some gold lace behind that reached from the waist down."—"Besides that robe, what had he on?" "He had drawers."—And then in cross-examination he is asked, "Have you any doubt about her royal highness having remained so much as five or six days?" "Six days."—"Are you sure she remained so many as six days?" "Yes."—He cannot, however, remember the day of the week; he cannot remember the day she went; but he states that his own room has a secret door that cannot be known to be a door by any person that was in the dining-room. It had

painted canvas. That was the happiest possible situation for a spy to select; and there he saw Bergami coming from the room of the princess three or four mornings out of six; when it is demonstrated, beyond the possibility of a doubt, that she remained but one night at Trieste, and that upon the following day she went on to Venice! My lords, the evidence produced by Mr. Hownam upon that subject is most important; and I really do not like to state any thing but what is most strictly and most technically evidence; for the more this case is looked at with the eye of a lawyer, looking to clear and distinct proof, the more satisfactory will be the reputation we gave of this witness. My lords, this question must be carried further in another place; and we should be certainly deficient in our duty if we were not to bring this man to justice, if he should be found at Cotton Garden at the proper time. Whether he will have found his way after Restelli, to quite the apprehensions of his family also, I cannot say; but it is our duty to society to bring that man to justice, and that he should know that persons shall not be permitted to give such evidence to vilify the highest individual, at the expense of truth and justice. My lords, the evidence of Mr. Hownam upon that subject is most important; and it is to be remembered, that he was not cross-examined by my learned friend as to that "Do you remember her royal highness arriving at Trieste?" "I do."—"About what part of the day was it?" "The middle of the day, about noon I should think."—"Did any one receive her royal highness upon her arrival at Trieste?" "I think the vice-governor received the princess. We went to the Opera in the evening; and we left Trieste on the following day about 5 or 6 in the evening. I recollect that distinctly." And your lordships will observe the caution with which this witness speaks as to all facts which are not, as he expresses it, correctly marked upon his memory. "Have you any particular reason for your distinct recollection of this fact?" "I have a letter that I wrote at the time from Venice, on our arrival at that place; it is dated on the 18th of April in the morning. That letter I have in my pocket." "It is a letter written to the lady he has since married?" "It was charged at the post-office; it has the Venice post-mark, and there is a passage in that letter, by looking at which he is sure they arrived at Venice on the 17th. It is dated the 18th from Venice. They arrived at Trieste on the 15th. He wrote on the 17th, her royal highness having left Trieste for Venice in the afternoon of the 16th. My learned friends do not put a single question; they do not ask to see this letter, they feel, they know it is true. The same statement is made by Vassali at page 938, to which fact he also is not cross-examined.

My lords; there is another circumstance. It is extremely painful to be obliged to refer to disgusting and sordid subjects, but I am happy to say there is one circumstance in this man's evidence worthy of credit; because, though I think your lordships would not have sat to try this case, if you had supposed it a case of key-holes and chamber-pots, yet in the second of these articles there is something worthy of observation. Why has Demont never stated one word upon that subject? for this simple reason, because on such a fact it would have been very easy to have contradicted her. If Bergami had at one place constantly slept out of his own bed, for the purpose of resorting to that of her royal highness; if her royal highness had slept out of her bed, for the purpose of resorting to his embraces at another, it is perfectly clear that that appearance must have been found in the room of the one or the other; but there is nothing of the sort in any place, and therefore I give to that fact the same consideration which I gave to the appearance of the sheets and the linen. The absence of that proof, being a subject capable of contradiction, is a decisive proof that no such thing occurred; but, if no such thing occurred, it follows as a necessary consequence, that the adulterous intercourse charged has not taken place.

My lords; we come then to another period of the case, in which it is not the object to prove particular acts of incontinence, but in which it is the object to fasten upon her royal highness a statement of indelicacy and impropriety of manners—a readiness to encourage vice and profligacy, disgraceful to her taste as well as to her morals, and quite impossible to be conceived in any person of education and of rank, without the most clear and the most conclusive evidence. My learned friend, the attorney-general, tells you that at the Barona during the carnival, the most disgraceful scenes took place in this house—scenes which I would rather leave to the witnesses to describe

to your lordships, than shock your lordships by detailing them,—scenes, which if fully proved before your lordships, will, I believe, satisfy you, that this house, the Barona, deserved the name of a brothel more than a palace, or a place fit for the reception of her majesty, or a person of the least virtue or delicacy. Balls were given there, not attended by the rank and nobility of the neighbourhood—nor by persons who, if her majesty had kept up her dignity would have been proud of the honour of her countenance, but persons of the lowest description." * I remember my learned friend, the solicitor-general, in summing up said, "the low in morals, the low in character, the degraded in principle and in feeling," and so on, though he had heard the evidence"—the greatest licentiousness prevailed in this house during the carnival—licentiousness which I would not state as an imputation upon her majesty, unless I was satisfied in my conscience I should be able to prove it passed with her knowledge." Now, in the first place, did it pass with her royal highness's knowledge? and, in the next place, did it ever occur at all? Why, my lords, I suppose you expected something different from what you have heard; you must have thought that this poor degraded Negro, who passes under the name Mahomet, and who is supposed to be unworthy the name of man in consequence of the indecent exhibitions he makes, was a kind of master of the revels at these indecent balls, and that there were exhibitions which would shock the delicacy even of the coarsest mind: but, on the contrary, it doe snot appear, that he was ever there at all, and from all that is stated on the part of the prosecution, there is no evidence of any act of indecency having been committed in the ball-room; and nothing is stated as having passed under the observation of her royal highness.

My lords; it is said that when first (that is Sacchi's account) those balls began, persons of distinction did indeed come; but that afterwards, upon witnessing those dreadful scenes of debauchery, they could not bring themselves to attend any more. Now, my lords, let me make one observation: if that had been the fact, why were none of those individuals called who are supposed to have attended at the outset of the proceedings, when there was nothing shocking or disgusting, and to have withdrawn themselves from the scene of so much immorality as soon as it assumed that description? Is it not a little too much for any counsel to say, "I will tell you that the motives of particular individuals for withdrawing themselves from the society of her royal highness were founded on indecent exhibitions made in their presence, without tracing this to a single act of that description, and without proving that any individual ever withdrew from those balls. The censors of morals upon this occasion, are not the duchesses and the countesses and the baronesses supposed to have withdrawn from this society, because they were so much shocked; but the censors of morals and the delicate critics of manners are Majoochi, then Demont, and then Sacchi. But, on being probed upon this subject, and having it known, that their depositions would be contradicted here, though they were not contradicted or cross-examined when taken *ex-parte* at Milan, those witnesses have told you, that in the presence of her royal highness nothing particular was observed. But these things are stated, by the attorney-general, to have passed under her immediate observation, and that, she appeared pleased at what was going forward, rather than expressed any dissatisfaction or disgust. Why, my lords, Demont, in pages 299 and 300,* does most expressly negative that particular fact, in the first place introduced by my learned friend in that period of the evidence. "How long did you continue at the Barona at that time?"—"The first time we only remained two or three days." "Did you afterwards return there?"—"Yes." "How long did you remain there then?"—"Nearly two months." "Were Pergami and her royal highness there during the whole of that time?"—"No." Where did they go to?"—"To Germany." "How long did they remain there before they went to Germany?"—"Nearly one month." And now there is a very important question put by my learned friend to that witness about that month, and which, if answered by a reputable witness in the way which I suppose he expected, would have been material evidence: "Did you make any observations upon the conduct of her royal highness and Pergami during that month, how they conducted themselves towards each other?" Now your lordships will

* See Vol. 2, p. 788.

* See Vol. 2, p. 1149.

not forget that here she has got out of the limits of her own exclusive jurisdiction over facts; she has come to facts in which persons may contradict her, if she states them falsely; and therefore her answer is: "I made no particular observation,"—a pretty good failure, I think, considering what was there attempted. "How did they address each other?"—"The princess often said thou *(toi)* to Mr. Pergami, and Mr. Pergami addressing the princess merely said 'princess'," —where it depends upon her alone, it is a singular fact if that "*tutoyé*" took place, that there is nobody else to state it; for there must have been a number of persons who heard them address each other, and I do not find, that there is one of the witnesses who ever mentioned the fact of that familiar address: "Did you observe while you were at the Barona, Pergami doing any thing to her royal highness?" That is as complete a bonus upon an answer, as any I ever knew held out. If the witness had any thing to say, it is impossible but that that sweeping question must have drawn it from her; and that shows the value of what she had said before. For those questions respecting the familiarity of their conduct would not have been put to her in this court, if they had not been put into my learned friend's brief: and therefore you see the correspondence between what passed in one court and another court, and between what passed in the secret tribunal at Milan and the open court of this country: You may be sure there was stated upon their deposition some fact which my learned friend thought he should bring home to the knowledge of these parties; but her answer is, "I do not recollect." "Do you recollect any balls at the Barona?"—"Yes." "Who attended those balls?"—"People of a low condition." "State what you saw of the conduct of those persons at the ball, which was also seen in the presence of her royal highness?"—"In the presence of her royal highness I saw nothing particular." "Did you ever hear Pergami tell her royal highness any thing as to the conduct of any of the parties?"—"Yes, once: Mr. Pergami related a history or story which had happened in the house." Now, that Mr. Pergami related any such history or story, I do not believe: it is proved by this young lady alone, who must have undertaken to prove a vast deal more, before my learned friend would have made the opening of this part of the subject which he did, and who has failed in the whole course of that proof in making out any one single fact in the slightest degree disgraceful or discreditable to her royal highness.

My lords; at page 433, Sacchi speaks of the same balls: "At the beginning" he says, "besides the persons in the suite, there came also some people of distinction; but in these balls were introduced people of all ranks and both sexes, and even of very low condition; and as between some of the suite of her royal highness and these low women there was some freedom, thus those people of distinction were no longer seen."* Now, that there might be between some persons of the suite and those low persons these improprieties committed in other places, but not in the ball-room—that Sacchi and Demont may have known of such facts or partaken of them—I am not disposed to contest, I think very likely. I give them perfect credit for the good faith of their own evidence: it is a deposition against themselves, and which affects no other person. These two might have known of some circumstances which were in a certain degree, and perhaps no small degree, disgraceful to the actors in them. "Have you seen the princess at those balls in the same rooms with those persons of low description, and girls who came there?" "Several times."—"Did the princess join in the dancing?" "Some times."—"Have you on any of these occasions, heard the princess make any other remark upon those women, or upon their conduct?" Then he thinks fit to give an anecdote out of his own fruitful brain, of some observation the princess made to him about the population of the Barona increasing, in consequence of some of these women; not giving you any name, it is impossible there should be a contradiction of it given—an anecdote of his own fabrication, which admits of no contradiction on our part, and which would have admitted of a corroboration on his part if there had been any truth in it.

Then, in page 465,† this is pursued a little further by your lordships, and it is there asked; "You are understood to have stated, that the princess was present during the ball mentioned by you, as

* See Vol. 2, p. 1269.
† See Vol. 2, p. 1316.

given by her royal highness at the Barona, how long was she usually present at those balls?" The answer is, "As her royal highness had her own apartment contiguous to the ball-room where she had her own party, so she came from the room and came into the ball-room, where she staid three or four minutes, and returned into her own room." Now this really is the history of the scenes of licentious and disgraceful debauchery said to have been committed under the immediate inspection and with the direct encouragement of the wife of the regent of England at the balls of the Barona, with the addition, that she seemed pleased with the indecency and wished to give as great an encouragement to profligacy as she had given an example of it. "You have stated, that the women were taken out of the ball-room at the will and pleasure of the men, do you remember that on any one occasion any of the women were taken out of the ball-room in her royal highness's presence?" to which his reply is, "I never made this observation." Now, really, I do think my learned friend, the solicitor-general, should have paused a little before he summed this up as a proof of any great impropriety of conduct on the part of her royal highness or of her giving any encouragement to persons who are conducting themselves in a licentious manner. There is not the smallest proof of it, even upon their own evidence. There is nothing but an imputation; exclusive of the long story this man chooses to tell about his sleeping with three girls at a time—a story of his own fabrication and invention, a story which rests upon the same foundation as all the other stories he has brought forward against her royal highness, but to which I give the most clear and decisive contradiction when I show what passed at those balls, when I show that there was nothing which passed on the part of her royal highness, but what many noble ladies indulge in, in their neighbourhoods at Christmas, by introducing persons of all descriptions, tenants and farmers and their servants and their grooms, and persons of the very lowest rank, coming in their best clothes to be received on that single occasion. And, was it ever to be supposed that this was to be formed into a ground of attack upon them, or that they were to be charged with licentious conduct for mingling with their inferiors? My lords, in England that is not uncommon. I have heard that in some of the greatest houses in this country, which I might almost call palaces, that custom prevails, and that ladies of high rank, so far from demeaning themselves, as my learned friend says, have thought they did themselves no discredit by mingling in them. And then, if it should happen that two of the persons present should have any toying upon the road home, would it be thought that the noble personage who gave the entertainment should be charged as the instigator of those freedoms so taken? That is the whole, except the anecdote he has introduced. The whole is, that being with a party in her own room she came out for three or four minutes and joined in a dance with the peasantry and tenantry. We have heard a great deal of the landlady of the St. Christopher of the name of Rosina. I expected to hear it proved that the St. Christopher was a house of ill fame, and that there was a great impropriety in her demeanor at this ball; but there is no proof of the kind, and we all know that the distinction of rank imposes a restraint upon persons when present on those occasions, and that there is not the smallest probability, in the human character, that such a libertine mode of exhibition should take place on such an occasion. I ask your lordships then, where is the proof of her royal highness having given such an example? where is the proof of any single person of respectability having withdrawn herself from that society. On the contrary, it appears, that being in a state of rural recreation during a month at this place, they had the same society from the first to the last, and that when the dance was not of such a nature that her royal highness chose to join in it, having been in the room for a short time she returned, as Sacchi says, to her own contiguous apartment and there played at cards or chess with the ladies attendant upon her. Mr. Hownam, at p. 742* makes it perfectly clear, that that was the case; and Vassali at p. 934,† gives in detail the very same description of evidence. Oggioni, another discarded servant, at p. 239, who is asked about the balls and admits that persons of her rank in society attended them, has not a single question put to him about any indecency there; and Filippo Pomi gives such a description of them, that one can hardly

* See p. 527 of the present Volume.
† Ibid, p. 937.

but wish one had been there. There is one young lady "the flower of gentlefolks." the daughters came with their fathers and their mothers, a large family of eighteen brought up by one couple of parents, the natural objects of great interest in a mind like that of her royal highness, who are all brought together to attend that ball. The party never consisted of above forty or fifty, and when Antongina came, being the tenant of the parish, it was merely because her royal highness wished to see that family assembled. He says, nobody came unattended by their natural protectors and guardians; that the princess was in her own room; that he never said he saw any thing improper upon that occasion. I think there is too much imputation cast upon us, in regard to the balls at the Barona. But, my lords, it is totally disproved: nevertheless for that very reason it is important in the case; for it shows how the most innocent circumstances have been perverted into charges of guilt. As Demont says, this unfortunate lady has been surrounded by spies; she has the misfortune to be the object of aversion where she ought to have been protected; there is no lady more virtuous; there is no lady more injured. There is not an individual who has so much to complain of as my illustrious mistress has of the circumstance, that there is not a single action of her life but what is misinterpreted and turned from wholesome food into poison; there is not a virtue she possesses which is not brought in array against her. Her kindness, her affability, her love of children, which is almost inseparable from an amiable character, her wish to make happy those neighbours whom she invited, like many ladies in this country, to her balls, are all perverted into matters of the grossest kind. And when we come to look at those things which are transferred from the green-bag to my learned friend having been first transferred from Milan to the green-bag —you find there is no instance, in which contradiction can be offered, in which that evidence is not cut to pieces by that contradiction.

My lords; must I talk of Mahomet? A word or two, perhaps; because it is of the same description. There we ought certainly to express our gratitude to Majoochi, who has disproved this case quite as effectually as he has the creaking on board the polacre. Your lordships will perceive, that here he had not been trained: if he had, he would have given the same description with the other witnesses; but, according to Majoochi's account, it is as innocent as any dance that was ever performed. Other persons, not called immediately after Majoochi, but who had a week to reflect upon his account, make it one of the most atrocious profligacies that ever was committed, when it is evident that Majoochi, who was present, describes it as a dance without offence to man or woman. He is confirmed in the account he gives, by Mr. Hownam, by Vassali, and by Mr. Granville Sharpe, who had seen at Calcutta a dance of the same description performed in the presence of persons of the highest rank and of morals, the most irreproachable. My lords, I really cannot enter further into that most absurd subject. My learned friend, the solicitor-general, said we were stunned; that the evidence came out with convincing effect; and that because Birollo made a case of guilt, Majoochi had made one of innocence; and because Oggioni transferred a part of the dress into that which the marquis put into Latin, the *membrum virile*, we are to make imputations against her majesty, of indecent exhibitions performed upon that occasion. My lords, Mr. Hownam has not only told us the nature of the thing, but how it came to be commenced, and continued. This poor boy got into a quarrel with the doctor about taking his physic, and they made him dance before the doctor, whenever he came on the deck. So that, so far from having any sexual reference, it was merely in ridicule of that person who, I fear, was not so popular as he ought to have been in her majesty's establishment.

Then we have one case more, and that is Mr. Sacchi, who tells your lordships, that in the middle of the night, when the weather was so hot, that nobody could sleep; when all the doors and windows of the Villa Ruffinelli were left open, he among the rest got out of bed to air himself, and that Bergami, while he was standing in his room thought he could not find a more convenient opportunity—all the doors being open so as to disclose every part of the house to every one of its inmates, or taking the chance of their doing so—of stealing to the bed of his royal mistress. I think I can say no more upon that than I said yesterday. I am extremely sorry to detain your lord-

ships with any observations of mine; but I have to say once more, that this is a servant, who after being discarded, thinks proper to come to speak to a fact which, if believed, would place the character of every man and every woman in civilized society entirely at the mercy of every individual who should be turned out of their service. It would be impossible it should be believed, unless it came from the gravest, the austerest, and most correct of mankind; from one whose testimony was above all contradiction and all suspicion; from one who could have no motive for injuring the party against whom he spoke; from one who had never, upon any occasion, expressed himself but in terms of the highest indignation against those whom he so accused; from one who, the moment that he made such a frightful discovery, had hurried out of the scene of infection and pollution, and so far from asking for a character of the individual whom he had seen so polluted and defiled, would have thought he destroyed his own character by asking her praises of it. My lords, if the contrary of all this is found to be the case with Sacchi, and it is proved in a most distinct manner, that he is directly contradicted as to the filthy fact by witnesses worthy of credit, then I ask your lordships, what are we to think of a case to be supported by the infamous scandals that these discarded servants conspired to fabricate among themselves? and which at this moment mainly rests upon the credit of this Sacchi—if it is to affect the princess at all?

I pass over, my lords, that walking from door to door, and from room to room. It cannot be contradicted by any other witness; for he alone could have seen it, according to his own account; but I will call your lordships attention to that journey from Rome to Sinigaglia, in which he has had the audacity to state, that he witnessed that gross obscenity which your lordships ears were offended with when it came from his lips. I must refer to page 438.* He says, he went every morning when day appeared near to the carriage to ask her royal highness whether she wanted any thing, and, my lords, Demont is not called to state the fact, as to what carriage her royal highness travelled in, or whether it was possible for a servant to open the curtains and look into the carriage. No witnesses are called to confirm him in that story; but he says, in that journey he was always by the side of the princess's carriage; that there were curtains round it, and that he went to draw aside the curtains several times. "Every morning when day appeared, I went near to the carriage to ask her royal highness whether she wanted any thing. Mr. Pergami travelled in that carriage; and sometimes," he says, "there was the countess Oldi, or the little girl of Pergami."—"Upon any occasion," it is then put to him, "when you have gone for this purpose, have you observed in what situation the princess and Pergami were? It has happened to me two or three times to have found them both asleep, and having their respective hands one upon another."—"Describe in what way"? And then he swore, and he did it with all the unfeeling coolness which accompanied the whole of his evidence, that it was upon a particular part of the one and the other: "Her royal highness held her hand upon the private part of Mr. Pergami, and Pergami held his own upon that of her royal highness"—which I believe to be impossible in the nature of things. Then when he is asked, who was in the carriage at the time, he avails himself of the protection, which may be sufficient in the case of Majoochi also, to escape the punishment he deserves. My lords, is it possible, that, any human being should be ignorant whether there was a person in the carriage at the time? is it possible that he should be doubtful whether the sister of the party in that odious situation, was with him by his side at the times his hands were so employed? It is to me quite impossible. That answer alone is to me a conviction that the fact is altogether an invention.

But, my lords, I do not rest on any speculations. I am not satisfied with the incredibility of the story. I go to direct evidence to contradict it. And if ever a story was distinctly contradicted, it is that fact, by this miserable gentleman, who has forfeited all claims to that title, if he ever possessed them, by the evidence he has given here. I refer your lordships to page 634,* and there it appears, that instead of Sacchi performing the office of courier upon that journey, he travelled in the caratella before, and that Carlo Forti, the witness, was the

* See Vol. 2, p. 1274.

* See p. 437 of the present Volume.

man who attended on horseback with the carriages. So far, therefore, from having an opportunity of approaching the windows of the carriage in which her royal highness travelled, he did not take the orders; he was as much shut up as her royal highness and her fellow-travellers could be. My lords, he is next examined, at page 640,* with the greatest strictness; and in that page, so far from giving the smallest contradiction, or entering into any inconsistency, or betraying any doubt whatever on his mind, he repeats the same evidence, with circumstances showing he could not be mistaken about it. He went from Milan to Loretto along with the suite of her royal highness; at Loretto he wished to go forward to Rome; he undertook to deliver dispatches there; and he states this remarkable fact, that Sacchi, who had been the courier, was unable to go forward, that he was chafed in his riding; and he went forward therefore with those dispatches, and upon a subsequent occasion having performed that duty well, he was definitively taken into the service of her royal highness and that journey he performed from Rome to Sinigaglia, which would have been performed by Sacchi to his great inconvenience, if he had been continued in that service. But her royal highness, in her great kindness, spared him, and took this Roman into her service.

My lords; there is an anxious cross-examination of this man, and there is not an attempt to convict him of any thing like an inconsistency. Then, I have this confirmation upon the subject—that Demont herself, so well acquainted as she was with Sacchi, so perfectly cognizant of all his movements upon all occasions, was never asked even as to this fact of confirmation, whether he did or did not ride as courier upon the journey from Rome to Sinigaglia? I mean, that she was not so asked when she was originally called here as a witness; and I mean to say, that all the evidence given by that individual required all the possible confirmation that could be derived from any direct swearing to the same effect, or from any circumstances drawn from whatever quarter to support him. She was not asked to that subject. And now, my lords, in addition to the evidence of Carlo Forti, let us look to what is stated by lieutenant Hownam, at page 722,† where he says, in conformity to the evidence of Carlo Forti, that her majesty instead of travelling in a carriage that admitted of the curtains being turned aside by a courier, was in an English landaulet with spring blinds, which could be opened only from within; and he mentions a variety of circumstances, showing his memory is quite equal to the whole which passed upon that occasion; and, if there should be any doubt as to the time, it is material that there is but one journey performed by her royal highness from Rome to Sinigaglia. He is asked, "Have you any recollection yourself who did perform the office of courier upon that journey? I do not recollect: there were two couriers." Carlo Forti is so far confirmed, that he was at that time courier in the service of her royal highness. "Can you, by adverting to any thing, recollect which of the two rode as courier upon that journey?" "I do not recollect positively which of the two it was."—"Do you remember at all whether Sacchi was taken ill upon any occasion?" I do, it is very imperfectly in my recollection; I remember he was not well."—"When the name of her royal highness is mentioned to you, does that bring to your recollection any thing about his being ill?" "No," he fairly answers, it brings nothing to his recollection—"I know the fact of her travelling in a particular carriage; I know the fact that Carlo Forti and Sacchini were both couriers, but which rode by her side, I cannot state from any recollection."

Then I would go to page 744*, where he is cross-examined upon the same subject, where every circumstance in the course of the journey is fully called to his recollection, where he is asked as to every thing which had occurred, and where my learned friends show that they have been put in full possession of all the means of cross-examining and contradicting this witness: "What sort of carriages were they? He describes them, "An English landau, an English landaulet, a little German carriage belonging to William (a calash), and another Roman calash, a carriage made at Rome."—"How far did you go that first day; you travelled by night, it being very hot weather?" "We travelled by night, and stopped in the heat of the day."—"Do you remember where you stopped the

* See p. 442 of the present Volume.
† See p. 511 of the present Volume.

* See p. 527 of the present Volume.

second morning, was it not at Nocera?" "I think it was, because there were some mineral springs there." "Did you not stop some time at a place called Fano, the third day?" "I think we breakfasted there. We might have stopped there an hour or two."—"How far is Fano from Sinigaglia?" "One or two posts; about ten miles. I think we arrived at Sinigaglia about one or two o'clock in the day. It may have been later. It is not marked sufficiently upon my memory, to say whether it was two or five o'clock." And now, having called Mr. Hownam's recollection to the place called Fano, my learned friend endeavours to get hold of something which is supposed to be likely to confirm Sacchi. He is asked, whether he remembers seeing Sacchi there?" "I do not."—"Do not you recollect Sacchi being ill there for a short time?" "No, I do not recollect it." Then he adds distinctly, being asked again as to the carriage in which her royal highness travelled, "I think it was in the landaulet."—"Are you sure it was in the landaulet?" "I am not certain, but I think it was: she had travelled in that to Rome; in fact, she always travelled in that carriage." So that the fact of her travelling in the landaulet, not in a carriage with curtains which could be drawn aside, appears to be placed beyond all doubt by Mr. Hownam. But he is further examined upon that subject by some of your lordships at page 755*, and he states there, that he has no decisive recollection which of the couriers accompanied the princess; that he has a slight recollection of one of them going before the princess in a carriage, but he does not recall it; he believes one of them did, but he has no positive recollection as to the fact. "The circumstance being recalled to your recollection, can you state your belief which of the two it was?" "I do not recollect; if I should —believe either, it would be Sacchini." "But you cannot be positive?" "I cannot be positive." And that is the account that Mr. Hownam gives from first to last, in which he places it beyond all possibility of doubt, that her royal highness was travelling in an English carriage, which had spring blinds to it, and that she was accompanied by Madame Oldi in that carriage.

Then, my lords, the next witness upon this subject is colonel Olivieri* a person of great respectability, and who gave his evidence in such a manner as to show that he was not disposed to strain beyond the truth. There is not the slightest reflection upon him; and I should not do him justice, if I did not speak of him in the highest terms of respect. When her royal highness set out from Rome to Sinigaglia, he saw her mount her carriage: he did not accompany her upon that journey, but he says; "I supped with her royal highness the evening before she set out, or the evening of her setting out." "At what time did she set out on her journey?" "About midnight."—So far differing from Vassali, who says it was about ten o'clock—one of those sort of discrepancies which confirm rather than contradict.—"Did you hand her into the carriage?" "I had also that honour."—"Into what kind of carriage did you hand her?" "It was what we call in Italian carrettina, a landaulet, an English carriage."—"Besides her royal highness, who got into the same carriage?" "Countess Oldi, and Pergami, and the child Victorine." Mr. Vassali was upon that journey, and Mr. Hownam also. He saw them in their carriage, and bowed to them —he knows that carriage perfectly well—there is not the least doubt it was the carriage in which her royal highness rode. And when he is asked, who rode as courier from Rome on that occasion, he says, "I saw Carlo Forti set out as courier;" and that of course is all to which it is possible for him to depose upon such a subject. He is cross-examined to these facts, and the question is put having been asked about their going out from Rome to Sinigaglia, and having stated that Mr. Hownam and Vassali went upon that occasion is he to be understood that they were in the same carriage? he says, "I have not said that I was upon that journey. I saw them set out; they were in two separate carriages; Mr. Hownam and Vassali, the two femmes de chambre, Mr. William Austin, Louis Pergami I think, and I remember no others." Schiavini did not set out at that time, but on the following day, he thinks two carriages besides her own, accompanied her royal highness; but whether two or three, he does not distinctly recollect; but he swears that upon that occasion when her majesty set out in the landaulet, and when Carlo Forti was

* See p. 537 of the present Volume.

* See p. 919 of the present Volume.

performing the duties of courier, he did not see Sacchi.

Then I go to captain Vassali; and there I find the whole of this distinctly confirmed. It is extremely important to draw your lordships attention to those facts which are stated on the one side, and to show how they are distinctly answered. In page 939*, he says, "I cannot precisely say how long the journey lasted; about three days. Her royal highness travelled in an English landaulet. Countess Oldi, Pergami, and little Victorine travelled with her. I saw Carlo Forti on horseback."—"Did you see Sacchi on horseback as courier during that journey?" "No." Then he states precisely those circumstances under which Carlo Forti was hired, provisionally at Loretto, and definitively at Rome. He is then cross-examined, but there is not one single circumstance in which he deviates from the answers he had given before, or contradicts any one witness before called. So that here is Mr. Sacchi swearing to an indecent, improbable, and incredible fact, detected by him upon the public highway, when he was riding as courier by the side of a foreign carriage, the curtains of which could be drawn on the outside, and not knowing whether any body was travelling by the side of her royal highness or not. He is contradicted as to the fact of his riding courier, by the individual who did ride courier. I mean Carlo Forti: he is contradicted by the fact, that colonel Olivieri saw Carlo Forti set out as courier, and did not see Sacchi: he is contradicted by the idea that one courier would be sufficient for such a journey: he is contradicted by Vassali, who states that one did not ride, and that the other did; and he is contradicted by Hownam—all these go to the impossibility of that fact being true on which Sacchi must rely, as principally setting up his evidence against her royal highness; which admitted of the confirmation of Demont with regard to the distribution of the persons; and which called for every confirmation it could by possibility receive, but which has received no confirmation in any one of its particulars, while our account has received no contradiction whatever. Is it possible, my lords, when a story is incredible, when a witness is entitled to no credit; is it possible, on such an occasion, to go further than we have done, or to show by evidence more distinct and decisive, that the story he told is altogether false? And, if that story be false, what becomes of his statement of his seeing Pergami pass through the door on a hot night, when all persons were watching, and none asleep? What becomes of his recital of private conversation between him and the princess, as to his indecent intercourse with women coming to the Barona? And what becomes of his statement, that persons of rank and condition were disgusted with what passed, not one of whom has been called to prove that fact?

My lords; it appears that the princess of Wales stated to Demont (though that rests upon her credit), that she was black-balled, as my learned friend emphatically expressed it, at the Cassino at Milan, though her exalted rank would make every one so desirous to receive her. If that be so, it was not in consequence of any impropriety of conduct, but because she was known to be the wife of the Prince Regent of this country; because she was known to be his exiled and calumniated wife; because she was known to be compelled to be wandering over the face of the earth; because there was no home for her here; and because the friends who had carried her through her first persecution, were known to be her enemies, and are now found in a situation on which I will not trust myself to dwell. My lords, under those circumstances, it is impossible but that evidence must have been found, because it was known to be wanted, for all such facts as to which there was a demand to attack the character of her royal highness. But is it necessary for me to go further—to go through this list of witnesses now given, these Guggiaris, and these Bianchis and Mejanis Oggionis, and so on, with all their Italian names? Is it necessary for me to go into any detail upon this subject? Do I not give a specimen sufficient to dispose of them all, when I show how Cuchi is perjured. But, my lords, if it were necessary, we are furnished with such samples of what might have been done in the way of contradiction and disproof, as no case ever furnished. But what are we to say, my lords, about the story of the Adam and Eve? Has any man a doubt as to the falsehood of that case now? And yet it was one of the most disgusting, one of the most offensive, and one of the most disgraceful acts charged upon her royal highness. I do not state

* See p. 940 of the present Volume.

the particulars of it. It is enough for me to state that Santino Guggiari, who is perfectly acquainted with those premises, and where those figures stood, has proved, beyond a possibility of doubt, that it was impossible for any man in that situation to have seen what he described. We have proved by Giarolini, by the plan, the same fact. Why, my lords, is there any contradiction to any of those facts; and can my learned friends pretend to say, that they did not expect to be contradicted upon them; that their evidence might not require confirmation? It is quite impossible that such an account could be suffered to remain; and when the man Raggazoni thought proper to say he had witnessed such facts in the grotto, it was essential to make the case believed, that the plan should be produced to him, to show whether it was possible he could see it where he stood. They have made plans; we hear of the architect Ratti and other persons taking plans; and we know from the expressions of some of their witnesses, that there were plans taken of all the places where her royal highness was ever found. Why is not this plan, then, given? But it is proved to be impossible that, according to any state of facts consistent with the truth, this Raggazoni could have seen the fact. I do not dwell upon this—it is a specimen; it shows what men will do when there is a great inducement held out to them to commit this sort of perjury; and it shows how cautious all persons ought to be, before they enter into any proceeding which can amount to an encouragement of that most foul offence.

My lords; look again at the fact proved by Raggazoni, to which he calls another witness to his aid—the witness Domenico Brusa. In page 224,* it will be found that on some occasion when there was some house warming, when the gardens were illuminated, and every one admitted, the princess and Pergami were seen sitting on the same seat. What imputation is there in that, except that Raggazoni tells us, as proved by my learned friends that it happened at two in the morning, which would be a most extraordinary detection to make, and would cast no inconsiderable imputation; but when we come to Domenico Burisa, my learned friend recollects the mode of counting the time in Italy: it turns out to be half past nine at night—when the Italian peasantry are most enjoying the beauties of the country and the happy climate in which they live—when persons are moving about in all directions—it turns out (if existing at all, of which I am sure I know nothing), that the thing happened at that time, just as open and as public as mid-day at Charing-cross, and at a time when the gardens were illuminated, and when those low persons, as they are called by my learned friends, were passing through the gardens.

Then there is Antonio Bianchi, who states, at p. 357,* the extraordinary fact of her royal highness and Pergami being found bathing in the Brescia; and that upon being seen by him and four gentlemen who were along with him, they ran away, took to their boat, and sailed down the Brescia, which I suppose would carry them into the lake of Como. Why, my lords, it would have carried them there with a vengeance—it appears to be a perfect cataract; it is either dry, or it is a torrent; and lieutenant Hownam proves that to be perfectly impossible, and that fact, my lords, shews the uncontrollable invention of persons who will come forward to tell such tales to an English public, which must be known to all Italy to be impossible. They have their hosts of witnesses; but they call none of them to confirm this man. It looks all very well on paper, till it is examined; but it is now proved, on evidence which cannot be disbelieved, and which might have been effectually disproved, if untrue, that this Brescia, instead of being a place where persons can bathe, is a place where they could neither bathe nor sail in a boat. But, if there were four gentlemen in the boat with this man, how happens it that not one of them is called? That is an observation which runs through the whole of these proceedings. Surely it was more desirable that those four gentlemen should have proved the fact, than that Antonio Bianchi should prove it alone!

Then we have another person a Giuseppe Guggiari,† who states that he took her royal highness from the theatre at Como in a boat and that he actually saw her saluting with her lips Bergami about four times—a greater number of times than Majoochi or Demont had worked up their consciences to speak to

* See Vol. 2, p. 1243.

* See Vol. 2, p, 1245.

† See Vol. 2, p. 1264.

during the whole of the three years that they perpetually and lynx-like attended upon her majesty. He mentioned among the persons present Tomaso Lago Maggiore, and we have him here, and he says, "I was nearer the carriage of her royal highness; there was glass between them and me. I can undertake to say no such thing took place." It would have been decent and proper that this man should have been supported, in the first instance, by some of the other boatmen; but he is not, and we have one of them to contradict him.

I will refer to this Giuseppe Guggiari again; because he is one of those who has given us an opportunity of contradiction, by referring to others. He says he was in the habit of attending in the pantry, and that he frequently saw great familiarities go on between the parties. He says his brother, and a certain Giovanni Capella was there; and there were always two; and yet only one of the men is called. But it so happens, that another of those whom he names, Carlo Rancatti, is called as a witness for some other purpose before Guggiari makes his appearance here, and he is never asked as to any such fact having taken place. My lords, what are we to say upon this point? When witnesses come by themselves to state facts in which, if true, they can be completely confirmed, but they are in no instance confirmed, will you believe the facts stated by them, unless it is a matter of notoriety so complete as to make it imperative upon you to give credit to them? But what will you say when the persons perfectly contradict the facts for which they have vouched them? Tomaso Lago Maggiore expressly denies the fact he is stated to have seen; namely, the kissing in the boat; and this other witness, Carlo Rancatti, disproves, by his silence, the fact of his having been in the pantry at the time those familiarities are stated to have taken place. My lords, these are trifling circumstances, but on that account the more important; and your lordships will not forget the way in which this case has been got up, in which falsehood has been ingrafted upon the plain truth, in which it was only for the suspicions of debauched and profligate minds to find any blame in her royal highness's conduct. It is impossible not to say that, up to that point, there is a consistency in their story; but, my lords, when the question is upon the motive, and when, as I have stated, the motives which naturally account for the elevation of such an individual as Bergami, why are your lordships to look for opposite motives to impute those of a criminal description, where it can be fairly and justly accounted for? Why are you to draw your inferences of guilt and infamy from these guilty and infamous witnesses—who have foresworn themselves on almost every important point, and have in every instance wanted that confirmation, without which such persons are not entitled to be listened to in a court of justice?

My lords; I perceive—indeed, one cannot cast one's eye on any note one has taken without seeing there is something omitted. It can hardly be out of your memory, and you will see it upon your notes. I mean that direct, positive, palpable falsehood told by Sacchi, where he states that at Paris, above a twelvemonth ago, he was induced to put off his own name and assume that of Milani, in consequence of the tumult that had occurred at Dover, when it is perfectly well known that at that time not only no such tumult had occurred, but I believe very few persons in England ever dreamt that any proceedings would take place against her royal highness. When you discover an important witness to material facts, on oath, directly stating a positive falsehood, it will be allowed that that circumstance supersedes the necessity of discrediting him any further; for it is clear that he is not a man to be believed in a court of justice.

But then, my lords, we come to that most important name in this inquiry—the most important of all, because he does confirm his friend Sacchi as to the nature of the facts to which they both dare to depose. I mean Giuseppe Restelli, whom I was reproved for considering as one of the most active agents of the Milan commission, but who certainly does appear, upon all the evidence as it now stands before you, to have been one of the most active agents that ever a commission employed. My lords, I hope not to be misunderstood upon the subject of that commission. We have heard a great deal upon the motives for its being appointed and the character of the gentlemen who were appointed to execute its duties. With regard to the head commissioner, Mr. Cooke, I cannot say—I have no interest in saying—that I ever heard any thing at all against that character—that I should have every disposition to respect it, from

all that I have ever heard with regard to it; but that that disposition does feel a considerable involuntary check, when I find, that he could stoop to accept the office which that commission imposed upon him. My lords, he is a profound lawyer —a man of great and extensive scientific research—a man of learning and judgment, upon points of legal doubt; but I confess, my lords, that of all the distinguished names in Westminster-hall, I do not think that any one could have been selected of whom less was known as a person likely to cross-examine, and to sift evidence with any degree of effect—as a man whose habits, whose talents, whose experience put him at all in a condition to check the falsehoods that should be brought before him by willing witnesses, or to check the practices of those that might be joined with him, or employed under him, in inducing witnessess to come forward with all the zeal they did.

With regard to colonel Browne, I suppose it can be no offence to a military man to say, that, in a situation which required the most anxious and serious attention to the conduct and demeanor of witnesses, he could hardly be supposed capable of given any useful assistance upon that subject; and therefore it appears to me to result entirely in this, that the only real and active commissioner was Mr. Powell, whom we now find the attorney for this prosecution, and who, I believe, is the very first attorney who was ever enabled to collect evidence, and to prepare a case for trial, by means of the compulsory power with which such a commission would furnish him. Colonel Browne was but the hand to bring those witnesses before him—colonel Browne was a necessary instrument in the hands of this government, to operate on the Austrian government, and he would compel the attendance of every individual whom Majoochi, Sacchi, or Restelli might mention in their several journies. It is the first instance of an attorney forming the sole commission upon such a subject. I make no observation upon it. I wish Mr. Cooke had never accepted the offer, but, perhaps, I am not displeased that Mr. Powell is the person who filled it.

My lords; Restelli was first engaged as a witness, and then as a courier; and I beg to call your attention to that which struck us very early in this business, as to the great impropriety of employing the same person in both those capacities, at the time of instituting such an inquiry. It was very well for him, in these hard times, to have sure and constant employment as a courier under that commission; there was no necessity for that additional stimulus which would result from giving him the opportunity of seeing the witnesses, and comparing their notes, as to all the facts they could press into the service of a false accusation, during the time that he and others had an opportunity of watching the conduct of her royal highness. I say, it was a most incorrect proceeding, and one that ought never to have taken place. I say, the characters of witness and courier should have been kept entirely distinct, and that not only had Mr. Powell the vast power of that commission to enable him to execute the duties of attorney, but he had a vast advantage in the previous preparation which Restelli would be sure to give to all the witnesses he brought. He goes to Frankfort to see Credi; and Mr. Cooke also goes to Frankfort. Credi is not examined; but he is one of the important persons on whom the experiment is made: they see the chambermaid, Annette Preising, on the same occasion; but she is not called here. It is impossible to doubt, from the employment of this man as a courier, that he would be, according to the expression of one of these witnesses, beating up for recruits; and that his object would be, to prolong his gainful office, and to support his own testimony, by beating up for recruits in every quarter. He states, that he never offered any money to any witnesses to appear against the Queen. That most material fact is met, I think, with some effectual contradiction. But, my lords, the most material fact of all is that which has occurred within your lordships observation—that most striking and important circumstance, that one of the witnesses who has told a story that reflects upon her royal highness more deeply than perhaps any other, and that exposes her by the statement of it, even after it is disproved, to a degree of suspicion of the most hateful kind—that that witness, who has been constantly active as a courier, as an agent, as a clerk I will say, for such were his duties when he was sent to converse with the witnesses, and persuade them to come—that that witness, over whom, above all others, we should like to have held the terrors of perjury, and to proceed in this country, provided we could distinctly prove (as I

have no doubt we should have done) the falsehoods of some material facts of this case—that that witness, when there was a distinct pledge on the part of the prosecutors, that no single witness should be permitted to leave the country, has gone back to Milan, to beat up for more recruits, to mingle himself with more witnesses, to instruct himself upon new facts, and to find, in case of contradiction, by what means these new facts might be supported by additional testimony. We were told, and were told with truth, that the injury inflicted upon her majesty, by being deprived of the opportunity of cross-examining that man at the moment, was a mischief that perhaps might never be repaired, it is impossible for any human wisdom to say that it can. Those are the words of truth and of soberness: it is utterly impossible to calculate the effect of being deprived of a witness under circumstances under which you have a fair chance of extracting the truth from him on points of the testimony, such as this of Restelli. My lords, he has disappeared somehow. He was sent away on the 14th of September, and now, on the 25th of October, we have no reason to think he has returned. What becomes of our security—of the security which your lordships gave (upon the opinion, I believe, of the learned Judges), that truth should be told by the witnesses in this case, and the only security that could operate upon a mind like his? I mean, that he should be subject to the penalties of perjury; that he should be convicted of that offence. But, my lords, that is not the worst part of the story: for he is taken away at a period when it would be in his power to procure fresh witnesses, and to fetch up new facts either in confirmation of what had passed, or in contradiction of what we might be able to prove. My lords, I think we have some reason to complain of want of candour in the whole of this transaction; and I think this requires all that weight of character to which some persons are so ready to appeal in their own case, and in the case of those employed under them, to get over the imputations which the whole of this matter justly excites.

My lords; I say, that if this individual, through any inadvertence, through any want of judgment and proper recollection, had been sent out of the country, it was the duty of those who had pledged themselves to us, that every individual should be retained in the country, to give us immediate information of that fact. It was their duty, not to take the chance of our making the discovery, which, if Restelli had returned before the 14th of October, we never should have done; but on that day when he was called for, he would have appeared before us as a person who had been constantly kept within these walls, and had had no communication whatever with any individual who could have supported his testimony, or confirmed it: I think we should have been told of that fact, according to the ordinary candour in cases of prosecution. We were not told of it. The matter is accidentally discovered on the cross-examination of a witness brought forward to contradict him: and then, for the first time, it appears, that he has fled, and has not yet returned. Whether he will return I know not; but it is not unimportant to look at all the circumstances under which that extraordinary disappearance has occurred.

My lords; when Mr. Powell was first examined upon this point, he told your lordships that the sending away of Restelli was his own act; that he recommended that Restelli should be sent abroad; that he recommended it to the Foreign Office——

The Earl of *Darlington*.—If Mr. Denman wishes to withdraw, perhaps this would be a convenient time.

Mr. *Denman*.—If your lordships will indulge me with half an hour—I will not be quite so long.

[Mr. Denman retired for half an hour, and then proceeded as follows:]

In the course of the observations which I have had the honour of submitting to your lordships, it has been my most anxious wish to follow closely and minutely every fact that has been brought in evidence against her majesty, the Queen; and I am not sure, on looking back to what I have prepared as the general subject of my observations, that there is any single point which I have left untouched (though many might have been more fully and successfully handled), except the performances at the Villa d'Este. I think there is nothing to prove, that those performances exceeded a single night—that it appears, that on the house-warming, or some festival, exhibitions were made at the Theatre, and upon that occasion, among other characters, the prin-

cess performed the character of Columbine, Luigi Pergami being Harlequin. My lords, upon that fact, which may be supposed to lower, in some degree, the high dignity of the personage and the illustrious rank of her royal highness, I have only one observation to make, which is familiar to those of your lordships who are acquainted with the Italian Theatre; which is, that those characters are as different from those of Drury-Lane Theatre, as any characters in any two plays whatever; because they are speaking characters; the Harlequin is Harlequino, the valet of the Lover, and Columbine, who is called Rosalva, instead of being the lover of Harlequin, or in familiar intercourse with him, is the lover of Lellio, whose servant Harlequino is. So that those characters here called Harlequin and Columbine, would be incorrectly translated into Harlequino and Rosulva of the Italian Theatre. I was surprised to find that this was to cast any thing like disgrace on the highest rank. My lords, upon this, as upon the rest of the case, I merely make the observation, that there might be too much of affability and condescension, too much of consideration of those in a lower rank, too much disposition to enjoy the innocent pleasures of life with those around her. But her royal highness appears to possess that peculiar talent which persons of her high rank are often found to possess, of mixing at one time in the most familiar intercourse of the most ordinary life, without in the smallest degree losing her claim to that respect, to that deference, to that attention, which it belongs not only to good subjects, but to gallant and to honest men to pay, under all circumstances, to females who occupy so exalted a station.

My lords; in referring to the Milan commission, my learned friend Mr. Brougham, is supposed to have admitted, that there was nothing which could be called a conspiracy in existence; but I think, if I remember right what he said upon that occasion, his observation was, that supposing a conspiracy to exist, which it was no part of his duty to prove in the first instance against the individuals charged with it—that supposing such a conspiracy to exist, it would exhibit all the symptoms and all the indications that are found to arise from that Milan commission.* My lords, I beg leave to adopt both parts of that proposition. We are not bound to charge individuals, or classes of persons, with any thing like a conspiracy; perhaps we shall be able to do so; but if we can satisfy your lordships, that all which has occurred can be reasonably accounted for on no other supposition, upon such a series of aggressions as those practised against the honor and character of her majesty, we shall then, I think, have a much better case of suspicion and inference, and indeed of conclusive reasoning, against those who have prosecuted her majesty, than they have been able to fabricate and manufacture, with all their vast means, with all their unbounded resources, with all their uncontrolled power, to make out a case of impropriety and degradation against her. How came the witnesses here? Your lordships process does not run to bring them here. They do not come under any compulsion. If they come here as volunteers, and without the sordid and corrupt motives we impute, they must come as the apostles of morality, with no brass nor gold nor copper in their pockets, with no shoes to their feet, and no two coats to their backs, out of a tender regard for the honor and dignity of the English Crown, and out of a feeling sympathy for the moral interests of the population of this vast empire. Its moral interests may be thought to have been better consulted by a different course of proceeding; because, whatever great moral results may be ultimately looked to as proceeding from this present bill, as it now stands, it has the most unfortunate effect upon public morals, of any proceeding that ever was committed to the reports of man. Because, my lords, in the first place, the most innocent and ordinary occupations of life have been connected, by this evidence, with the most vicious and revolting associations and ideas. The commonest transactions of every day's occurrence have been vitiated and polluted by the harpy touch of their calumny and atrocity. And, what is worse than all, supposing all the facts proved against her majesty, which I say are contradicted and refuted—even supposing that she were guilty of all those offences against morality which are thus unblushingly laid to her charge—there still will be lurking in the minds of men, that mischievous casuistry, which shall find a justification for impurity; which shall find an excuse for what has been committed; which shall weigh the degrees

* See p. 130 of the present Volume.

of provocation which have led to so unfortunate a result; and which will leave a most fatal, distressing, and unfortunate impression, as to the effect on the sound principles of domestic morality in all future ages. That supposition only arises, supposing the facts to be proved. They have been not made out. They shall be shown to have resulted, in every instance, from such circumstances and such individuals as are entitled to no credit whatever, at the bar of any just tribunal.

My lords; I was proceeding to observe upon the Milan commission, and upon the extraordinary absence of that individual who fills the double character of witness and collector of witnesses, under the employment of that commission—a double character which he shares with Sacchi, which he shares with Majoochi, and of which Demont appears to have been the first object in the course of his travels under that employment.

My lords; Restelli has been withdrawn from our notice, and it became material to know from the gentlemen who sent him away, and from whom alone that information could be received, what were the circumstances under which he was sent. I beg your lordships attention to Mr. Powell's statement upon that subject, at page 811* of the printed evidence. Mr. Powell says, that he sent Restelli on a mission out of the country, recommending him to the Foreign Office as a courier. "Did you get passports for that purpose at the Foreign Office?" "I did not." "Can you state who did?" "I did not." "But you applied to the Foreign Office you recommended he should be sent?" And then, my lords, the motives, and reasons, and grounds, upon which he could think himself justified in sending away so important a personage, are stated at large by Mr. Powell. It was necessary, he says, that some comfort should be given to the anxious families of the witnesses who had been mal-treated at Dover, and that their minds should be assured, that no farther danger of the same kind would exist, to make it impossible for other witnesses to appear in this country. Now, if that were the fact, I beg to know why Restelli was the person sent? And the answer given to us, is, that Restelli was the person who brought several of them over, and therefore was likely to be known, and to convey confidence, by the assurance that he might give upon the subject of their safety. But all those persons, it seems, wrote letters? Why was Restelli to be the courier to carry those letters? Are the families of those witnesses at Milan such extreme sticklers for the niceties of legal evidence, that they will not trust to hearsay, and that when they see the hand-writing of their friends, unless it is proved to be theirs, they will give no credit to it? Why, my lords, Restelli states expressly, in the course of his own evidence, that he knew them only by sight, and that he was acquainted with them in consequence of nothing but the fact of having brought them over to this country; and he states the individuals whom he so knew in page 413:* "Some I know, some I do not know. Those I know, I knew because we came together, but I had never seen them before."—"Who are they?" "They are various; I knew them by sight before, but I had no intimacy with them." Then he states the names of Rancatti and of Mejani, who are still here; of Ogioni, who must be taken to be in the same situation; of Riganti and Baie, neither of whom have been called; either of whom, therefore, would have been at liberty to attend the courier Krouse when he was sent to Milan, and who might have personally assured the families of all he knew there, and have carried letters to relieve their fears and apprehensions.

Restelli, however, is sent; and when Mr. Powell is examined, not cross-examined, with all possible consideration by your lordships, he first tells us, that he thought there would have been ample time for Restelli to return before the 3rd of October, and that his instructions were specific, that he should come on or before that day. He evidently admits, by that answer, that he thought it essential that that witness should be in attendance during the remainder of the trial now going forward in this House, and not looking forward to any future proceedings—of which, I trust and hope, there is but little chance. And then, in answer to a further question, "Have you had any communication which enables you to state whether it is probable that Restelli will soon again be in England?" he tells us "I have every reason to believe that he will soon be in England, because the most positive directions have been sent, that

* See p. 624, of the present Volume.

* See Vol. 2, p. 1250.

every means should be used to make him come over here. He is then asked, "When were those directions sent?" "They have been sent two or three times; the last on Saturday or Sunday, the most positive directions." And it is very remarkable, that such is Mr. Powell's confidence in the efficacy of those directions, that he has not the least doubt they will cure him of the fever under which he labours and that, though he is subject to medical attendance and has been blooded and kept his bed, the moment those directions are brought to his notice he will instantly take up his bed and walk, and present himself in five days before your lordships.

Now, my lords, I think I heard some correspondence read here yesterday, in which it was stated, that though Restelli had told colonel Browne that he was ill of a fever, yet colonel Browne thought he was shuffling—he was in bed and said he had a fever from crossing the water, and was heartily sick of the manner in which the witnesses are confined in England, because he might have heard that the pillory, which is abolished as to other offences, is still applicable to perjury. "He is heartily sick of the manner in which the witnesses are confined in England." Aye, and a longer confinement might have, perhaps, ensued, if he had remained here. "I wish he had not been sent back at such a moment as it will, I am sure, be difficult to move him again. I shall press him, the moment he leaves his bed." That is dated on the 27th of September, and then on the 2nd of October, he is "also on his pillow and has been bled twice yesterday. He has a serious fever, and, as I hear he attributed it to having vomited blood on the passage over the water, I expect very great difficulty in getting him back to London."* And yet, in spite of that suspicion of his shuffling, and in spite of his hearty sickness of the manner in which he has been confined, and in spite of the great difficulty there was likely to be in getting him to return to London, Mr. Powell states, on the 13th of October, that he has every reason to believe that he will be very soon in England! Then, on being a little further pressed, he states, that he had not the least idea that he would be again wanted as a witness in the House of Lords. Then why the instructions to return on the 3rd of October? What reason could there be for having him back when you were to recommence the proceedings, when there was no idea of his being wanted in England until the bill was on the table of the House of Commons? And then he states, that he had a full expectation, that the man would return; that he never would have sent him, if he had not felt an impression that he would be there on the 3rd of October.

Now, in the first place, my lords, it is quite clear, that there might have been other persons sent who would have tranquillized the minds of the relations of those witnesses. But, on the following day, when Mr. Powell is called to state something about Restelli's disappearance, he tells you, Restelli took out some papers to be legalized, and that he was to return with those legalized papers here, on or before the third of October. Now, I am at a loss to conjecture what documents could be legalized to be brought in evidence here; but I take it for granted there were such documents—only it shows that the whole truth was not disclosed on the former occasion, for that Restelli, went also for the purpose of getting more documents legalized for some future proceeding. And then it seems, that the statement from colonel Browne that Restelli was ill of a fever is to be considered a confidential statement—that a client writing to his attorney that another is ill of a fever, is to be protected from all further inquiry. Mr. Powell says, he does not know what letters Restelli took for the comfort of the minds of those families; but he is afterwards asked, "You were understood to say, that you gave positive injunctions to Restelli to return before the third of October?" And he says, "If I recollect right, I stated to Restelli, that he was to be back on or before the 3rd of October, or as soon as he possibly could." "You were understood to state yesterday, you did not expect that Restelli would be wanted before this business was proceeded on in the House of Commons?" "I did not expect he would be wanted as a witness, until this proceeding would go on in the House of Commons." Why, what difference does that make as to the date of the time at which he was to be called on to return? None whatever. But then, my lords, in addition to the statements that I have now referred your lordships to, and to all that appears on the part of colonel Browne upon this occasion, we have

* See p. 969 of the present Volume.

a further statement, dated Lincoln's-Inn, the 13th of September, in which Restelli does not appear to be sent solely for the purpose of comforting the Italians, or to legalize documents, but Mr. Powell says, "I now return you Restelli, as I conceive he may be of use to you"—to you, the resident Milan commissioner, who are now the agent in getting up this cause against the Queen; but you must take care, that he is sent back by the 3rd of October." What? that he may be ready to stand further cross-examination here? No; but that he may come with all the information, evidence, and witnesses, you can collect. So that there he goes for these different objects and purposes—one unfolding itself after the other.

But I do not mean to say, in any manner, that Mr. Powell has wished to falsify the evidence he has given. I only ask you, whether, if a gallant, though perhaps not a well-informed individual, had given evidence of that description on cross-examination on the part of my learned friend the solicitor-general, there would not have been a thrill of delight, and some murmur of applause, and some triumph trumpeted about the streets of London? Lieutenant Flinn was told he had stated something as to his handwriting to a paper, which he had not stated, and he was supposed to have been guilty of something like prevarication and falsehood.

My lords; upon this subject I think it may perhaps be very right, as it it shows what is proceeding upon this great occasion, and the sort of machinery that is employed to destroy the illustrious individual now upon her trial, to advert to a statement of what I had the honour of addressing to your lordships yesterday. I am supposed to have said, that in consequence of a deviation from correctness with respect to a paper of no consequence, lieutenant Flinn had been consigned to infamy. My lords, I think I need not do more than refer to what I said. Nothing can be more completely wide of the truth. I merely make the remark on the statement, in order to contrast the nervous hesitation and the hesitating manner betrayed by that individual when before an assembly which he never faced before, with the evidence of Mr. Powell; and I ask whether there are not, if persons are disposed to judge harshly of witnesses, more proofs of prevarication and falsehood in that evidence, than in any thing which proceeded from the lips of lieutenant Flinn? The same paper informs us, that Madame Martigni admitted that her husband had been a bankrupt. Now, I think your lordships can hardly have forgotten, "Mon Dieu, oui; ni lui ni moi!" quite distressed and astonished at being told of that fact, and repelling it with all possible strength. It is not worth while to follow it, but it may be worth while to consider the effect on the public from the daily misrepresentations which now, for the first time, are proceeding from the English press, in order to destroy a party accused, and to take from the defendant, not only that presumption of innocence which ought to exist until the moment that defendant is proved guilty, but to convert the proofs of innocence into signals of guilt.

Earl of *Darnley*.—What is the paper?

Mr. *Denman*.—The "Morning Post." Now, my lords, upon the subject of this Milan commission—supposing there had been a disposition to get evidence at all risks, and at any price, would it have been possible to resort to better agents for the purpose, than the discarded servants of her royal highness—those who had been discharged from her service by the individual charged with her—and those who would bear malice against her as well as that individual? Would it have been possible to resort to better agents—more active friends—than the Restellis—the Sacchis — and the Majoochis? And would it be possible to apply to a better source for confirmation, than to Demont, who had been for three years in constant attendance upon her person, in every place she visited? I think, when those great powers were spoken of, which we are in utter ignorance of, in regard to the commission, it would have been fit to take care that the commissioners should not have the power of proceeding in the way they have appeared to proceed, and that of all the persons who could be employed to get up witnesses and facts, in all the quarters to which application was made, it was quite impossible to find an individual more unfit for the object, if truth was the object, or more fit, if falsehood was the object, than Restelli, whose absence we have so much reason to deplore. When he comes, with new witnesses and new information—when he has recruited a new set of spies and informers and traitors, ready to depose to any thing—how different will be our state to that which it

was at the first moment! And as to saying, "a large and liberal allowance can be made," none such can be made—it is an insuperable loss—you can no more make it up than you can recall the time that is past—you cannot undo that which has been done. The impression has sunk into the minds of men, and it is impossible for any thing to operate as a compensation in such a case. Will you give us up Cuchi—will you strike him out of the case as a set-off?—We do not want him—we have destroyed him already. What next? Raggazzoni with the Adam and Eve, we have disposed of them—we do not want Oggioni—we do not want Mahomed—they are all gone—they are all lost—the subjects of eternal ridicule and eternal indignation. And if you are to strike out any of the evidence which appears respectable against us, the only difficulty is, to find, in the whole of the five hundred pages of all that has been proved against the Queen, where that respectable evidence is to be found, which it is possible for you to give us, in the way of allowance against the disreputable evidence we have lost.

My lords; Restelli, in the month of December 1815, having been dismissed, is soon after beating up for recruits in all quarters; and I think the evidence of Filippo Pomi is of the utmost importance to show the whole proceedings resorted to under that commission. He has stated, that having gone to the Barona, he was there met by several persons, including Restelli and Demont, and that Restelli addressed him, and told him, that he was frequently in the habit of attending at the house of her royal highness—that he was an individual who might be well applied to as a witness, because he must know facts discreditable to her royal highness. The answer of the man makes no difference in Restelli's application—it is in vain for him to say, "I know nothing that affects her royal highness's character in the least; on the contrary, I know she is beneficent, charitable and kind, and I would go to the end of the world to serve her; I know nothing of the scandals about this house, but I have been in it frequently when I have attended the balls, and seen her conduct on a variety of occasions—so far from detecting impropriety or indecency, I have observed nothing but what has been to her honour, and excites my admiration on her behalf." But here is Demont, says Restelli; she has made a good day's work of it; she has done well for herself—you cannot do better than follow that good example. He told me, "Pomi, if you have any thing to depose against her royal highness, now is your time; you will have a great present; you will become a great man, and shall receive a great present—and we went to the inn together, and there we drank." Well, and then what did he say about Demont? Why, "I asked him whether Demont was still in the service of her royal highness; he told me, that she was; he did not mention to me her name on that day, but he mentioned it on the second day, and told me that she had made a good day's work." "Then I said, tell me, how is this business, for he told me that Demont was still in the service, and then I found out that she was here; and he told me at that time that if I would depose something, I should have a great present; and I said that I had been night and day a long time in the house, and I never saw any thing that enabled me to speak ill of that lady; then he told me, you know nothing, for that house was a very bad house, bad women and so; and I answered, that this was a real falsehood, for I had been in the house day and night, and I saw nothing of this, and so we ended."* But, do you believe that so they all ended? Do you believe that Rugiari was so faithful to the truth as this poor man? Do you believe Raggazzoni, who speaks to the Adam and Eve, did not do so in consequence of applications of the same nature, and those applications made not only with an unlimited power of promising, and an almost unlimited command of money, backed by the Austrian government? It is impossible but every individual who heard of this should have thought his fortune might be made by it. Riganti is proved to have been making similar offers. The same Pomi, who was not permitted to state that at first, because he had not fixed the agency of Riganti, stated it afterwards, that here was another active agent of the Milan commission employed in directly corrupting witnesses against the Queen. Why, with all this protection of confidential agency, is it not a great deal that we, who have had no list of witnesses, and no opportunity of coming at the truth, should have been able so clearly to detect two individuals acting in

* See p. 666 of the present Volume.

this manner—the one that Restelli who is spirited away, the other Riganti, who is left behind, and whom they dare not call to contradict the man who charges him with bribery to support the case against the Queen? "Have you ever seen those jokes between the princess and Pergami; now is the time to come forward to gain something, and to become a man?" "I answered him, No, I have seen no scherzi;" and he replied, 'Oh, have you not seen Pergami put the princess on the back of the donkey, and put his hand under her petticoats?' In answer to that, I told him, that this was a perfect falsehood; for, instead of that, he paid her all possible respect and decency, which was due to that great personage."* My lords, that fact is of some little importance; you may recollect that, at Genoa, Majoochi would have made it a case of great impropriety, that her majesty was embraced by Pergami when it was to put her on the ass; and it is attempted, from the most innocent and ordinary occurrence, to give a willing witness an opportunity of swearing to a falsehood which the occasion gave some opportunity for; but as to the foundation of it, there is none whatever. Restelli is sent away. Riganti is in the country, and might have been called to contradict Pomi; but the only witness to contradict ours, is captain Briggs, on whom I shall make one observation before I quit this case.

I proceed to Bonfiglio Omati, a witness whose evidence requires great consideration; because, impossible as it is to call him a pure character, yet with reference to those who appeared against the Queen, he is purity itself. He charges himself with facts he has repented of. I wish the other side had repented too, before it was too late, without involving your lordships in this most odious proceeding. He states, in p. 858, in the most distinct manner, that having been a clerk to the advocate Codazzi at Milan, who was concerned as a professional agent for the princess, he was sent for by Vimercati, by a man whom he did not know—that he was sent to his chambers, and had frequent communications with him upon the subject of purloining the papers in the office, that might criminate the Queen. He states, that he had the scandalous weakness to come into that proposal, and that he received between three and four hundred francs for the papers he brought. Now, my learned friends would have us believe, that this comes on them by entire surprise—and yet they cross-examine to the case in such a way as proves, that to their knowledge, a part of the facts are true; because he says, "I went to colonel Browne's, and he, colonel Browne, shut the door of the room, in order that we should not be heard; and he told me to speak not so loud, because I complained of the advocate Vimercati; and he told me to call the next day on Vimercati, from whom he would cause me to receive 200 francs. How do my learned friends cross-examine to that point? from the instructions they have received from colonel Browne? They say, it is true he was there, and shut the door; but then they say, it was, to tell him he should not go till he had told him his name, and that he told him he was a most infamous fellow. What necessity to know his name; and when he has got his name, does the examination point to this fact, that he gave notice to the master that the clerk was robbing him? There is no such thing supposed; but he shut the door for the purpose of knowing his name, according to the statements of my learned friends opposite, and which they had received from colonel Browne—when the witness, Omati, states, he shut the door for the purpose of not being heard. But then the man says, "I got papers at several times, and I repented early in the year;" and then it is put to him, "Now, I ask you, upon your oath, whether you did not, even so late as July, furnish Vimercati with some papers?" Why, I would not wish for a better proof of something going forward between this clerk and Vimercati. I do not want this individual's evidence after that; because the instructions of my learned friend are true, and they show, that Vimercati was employing this man for the purpose, up to the 27th of July, the time at which he says he ceased to do any such thing; but he admits, that on that day he took him a list of the witnesses in favour of the Queen, consequently they had a list of the witnesses in favour of the Queen, while we wanted the list of those against her; and they have had an opportunity of contradicting every witness we called, from the papers they got from this clerk, and which we trace pretty nearly to the hands of colonel Browne, at least to his know-

* See p. 831 of the present Volume.

ledge, and which my learned friends do not attempt to get rid of; but they set up the evidence, to the extent of all but the private conversation between colonel Browne and Omati, when he saw him; for that he did see him is distinctly admitted.

Then, my lords, I do think, that, as the case now stands, it is a case of great and heavy imputation against this gentleman, such as I have scarcely ever seen proved in a court of justice, and I cannot stand here and say, but that it may be due to colonel Browne, on some future occasion, to hear all he can produce in his justification; but I say that, with the notice he evidently possessed of the charges so to be brought against him, and of the fact of Omati being to come as a witness, it was his duty to be here from the first, to answer for himself, and to show whether he could stand that cross-examination, when he was to contradict a witness, whom he knew to be prepared to prove these facts against him. My learned friends say, it is not proved; but they cannot be ignorant of the fact, that a process was instituted by the advocate Codazzi against colonel Browne, on the evidence of this individual, and that it was dismissed, because the papers to which it referred were of no intrinsic value [The Attorney General said, he was not aware of that process]. I thought it was known, and that my learned friends would admit it, subject to any observation they might make on it. But it is beyond dispute clear, that colonel Browne was perfectly aware of the nature of the charge against him, and of the individual to prove it: and, with such imputations resting on him, he has not thought proper to appear here in vindication of his character. It was quite monstrous to ask for time on such an occasion; because there was every reason why he should have been upon the spot, from first to last. He was wanted to explain the Milan commission—he was wanted as a witness—he had no business to be where he was, after acting as a commissioner, getting up evidence as an attorney in the cause. He ought to have been here to answer for his acts, and to clear his character from that charge which he must know the individual in question came to bring against him.

My lords; most undoubtedly it could not but be matter of great surprise to us when, after some of the most able cross-examinations that I ever heard applied to witnesses, such as those which my learned friend applied to our witnesses on the part of the defence—cross-examinations involving a great variety of particulars, in which, if our case was false, it might have met with a direct contradiction—it could not but be matter of very great surprise, to find, that there was but one witness to be called before your lordships' bar, and that one to a fact of the nature which I have now to observe upon. Lieutenant Hownam has distinctly sworn, that, during the three years he was in her royal highness's household, seeing Bergami as a page, seeing Bergami as an equerry, seeing Bergami as a chamberlain—seeing him introduced to her table, and keeping his seat there with the rank of his office, he never observed the smallest impropriety existing between those two persons. He has sworn that in a manner which entitles him to the fullest credit; because it is perfectly clear, that, looking through the long period through which he went, he has not overstated a single fact, nor strained his memory to give any thing more than its fair bearing. But it appears that, walking the quarter-deck with the captain of the Leviathan, he is asked, whether he said any thing to that captain on the subject of his going down upon his knees, and requesting her royal highness not to take Bergami to her table. Now, my lords, observe his answer;—he says, "I do not recollect it, I do not believe." He never said, "I am sure I never did the thing supposed;"—and therefore not recollecting, and believing it to be most improbable, I can only say I do not believe it ever took place at all. Your lordships know extremely well, that matters of belief are not the subject of direct contradiction, unless you can prove a direct knowledge in the party at the time. But we did not take an exception of that description—we thought it right and just to the character of both those honourable men, that what one recollected he should be entitled to state, and therefore we listen to what he had to say with regard to this circumstance. Now, it is quite impossible, that the thing should have passed! and for this reason, that there was no previous arrangement made for Bergami dining with her royal highness: it took place at Bellinzone, in the journey to Mount St. Gothard, when there was a want of refreshment; therefore, for the first time, without preparation or consid-

ration, the courier was found at the same table where her royal highness was snatching her hasty repast. It was impossible that Hownam should have said it—even if he, a young man dependant upon her royal highness for her bounty, had thought it objectionable, it is quite impossible. If he thought himself justified in taking such a liberty, that the circumstances should have given him an opportunity of doing so. My lords, it is not to be conceived that any such thing could have taken place. It would have been such a freedom on the part of that young man, as no man will suppose he was guilty of. I will not pretend to disguise from your lordships—on the contrary, I believe captain Briggs meant to state what is true; but I have always understood that such communication between officers is secret and confined to the quarter-deck, and that any man would be surprised to find a captain reporting it any where, particularly when it was considered that the person was in the most confidential situation with regard to her royal highness—a *protégé* brought up by her, and owing his preferment to her. Surely it would have been better if captain Briggs had never stated such a fact, supposing it to have existed; but to the extent to which it is said to exist, I am sure, for the reasons I have given, it is not true. I do not pretend to deny, that it is possible Mr. Hownam may have seen, when the circumstance was fresh, more impropriety in it than he now avows; but I think it more likely that, in parallel with that case, that Mr. Craven has given you of her walking out on the terrace with Bergami; he may have thought it was imprudent—that it was exposing herself to sinister interpretations—that he would do much to prevent it—and probably the expression was of a strong disposition to prevent it—probably the expression was, "If I could prevent it by going down on my knees, and entreating her not to do it, I would do so;"—because he knew the persecutions that surrounded her wherever she went. That is the only interpretation that can be put on this contradiction. I know they are both honourable men, and I should be sorry to say a syllable to reflect on one for the purpose of defending the other. My lords, that circumstance and the circumstance of lieutenant Flinn's answering with respect to a piece of paper, are the only two circumstances in the whole mass of evidence, from the beginning to the end of it, with which it is necessary to speak with one word of apology. There is nothing besides in the mass of what we have proved, either in the character of the witnesses, in the probabilities of what they state, in their mode of stating, in the nature of the whole case—there is nothing that calls for one word of apology or explanation. I think that the apology should come from the other side, when lady Charlotte Lindsay, who was so long in a confidential and dependent situation, in her royal highness's household, which she brought her mind to submit to for the sake of a person most dear to her—that apology must come from the other side, when you find that what she stated to that individual, has found its way into a court of justice, and when we are told, that the reports she heard were rumours reflecting on her character, and making it desirable that she should withdraw from the service. Those rumours and reports are the things of which we complain. We say, that they ought not to be scattered against us by our enemies, and next brought as evidence to criminate us. If they have resulted from facts, they should be proved; and if they have not resulted from facts, they are only a farther proof of the malice, antipathy, and unfortunate persecution, to which, to the misfortune of us all, this illustrious lady has been subject.

What is the case on the part of the Queen? Much I have already said—much I have already observed and drawn from the evidence on our part, in observing upon that brought against us. But, when I look to the substantive case we have proved, I say there is an end of this bill,—if there is justice or common sense in England; because, to say that her majesty was conducting herself abroad in such a manner as to bring scandal and disgrace upon the Crown and dignity of the nation, is to sin in the face of the oaths of all the respectable persons we have brought. If such facts had existed at Naples, lady Charlotte Lindsay, whatever the distress of her husband might be, would never have remained one hour in her service—she would then have withdrawn herself from so polluted a house—she would have thought it necessary to make inquiries, to understand and know them; and the circumstance of her continuing in her service from Naples to Genoa, and from Genoa till the year 1817, is a proof of the entire acquittal, in her mind, of her

royal highness, as to all those facts so malevolently brought against her. We have a long list of persons supposed to have withdrawn themselves in consequence of improprieties; beginning with Mr. St. Leger, and ending with Mr. William Burrell, who was a visitor there for a few days. There was a list of a dozen respectable names, every one of whom was divorced from her majesty at that important crisis, because of some impropriety going on. If so, was there ever such an opportunity of proving it by evidence?—not of resorting to rumours and reports, which might make it desirable for a lady of rank and delicacy not to stay there, but facts of the clearest nature, every one of which might have been made out beyond the possibility of doubt, if those facts had existed. I cannot believe they were even thought to be true.—I cannot believe that if at that period it had been really and *bonâ fide* believed, that her majesty had been so degrading herself as this bill supposes, that she would not have immediately received remonstrances and complaints and summonses from home—that she would not have been told she must give up that low society; that it was necessary for her to answer here for her conduct; and that the princess of Wales could no longer be allowed to wander over the world accompanied by the persons of the low description and the infamous nature stated. Captain Briggs and captain Pechell must have made their report;—lieutenant Hownam could be applied to. No such report has been made unfavourable to her royal highness; but they must have deposed in private, as they deposed here, to no single fact to bring her honour into suspicion. My lords, it is impossible to suppose any human being would have the cruelty to let such an accusation sleep for six years. How can, at that distance, facts be brought to rebut such imputations; not resting on specific facts, but the result of a long train of inferences, each by possibility in itself admitting of an easy answer, if timely questioned. But now, at this immense distance of years, there is nothing left but the suspicion preserved to produce its malignant operation against the Queen. I cannot believe there was a real opinion of her guilt at that period, and I can only lament that any circumstance should have occurred, to throw the smallest probabilities before the blood-hounds of scandal and villainy in the neighbourhood of Milan, as should have given them a foundation to build this fabric of calumny upon. That is her majesty's sole fault; and if that is a fault and indiscretion—supposing it to be so, for I admit no impropriety of conduct, it is only indiscreet because Mr. Craven had warned her against spies—because lieutenant Hownam had made a similar remonstrance—because she had had the experience of six years, and the knowledge of baron Ompteda—it is only on these grounds that I call it imprudent and indiscreet; because, in every other point, the circumstance seems clearly and satisfactorily explained.

My lords; we were told, as I mentioned so often, that all the witnesses were to be called, in whatever way their evidence might operate; and I suppose, that my learned friend, the solicitor-general, who concluded with a prayer for the Queen, to give her the victory over all her enemies—which prayer he must satisfy himself is likely to be granted—must have thought that the earl of Guildford, who was received at her majesty's table without restraint and without disguise, at the time that Bergami had been newly promoted to a seat there—not once but twice; might prove something unfavourable to her majesty, and therefore, out of pure charity he was not called. I must presume when lord Glenbervie, whose lady had been years in attendance on her majesty, found her at Genoa without a lady of honour it would be thought injurious to state, that he made a voluntary tender of the services of his lady to her royal highness, and this after a period when, some how or other, her English suite had dropped away from her. I suppose it was thought, that lady Charlotte Lindsay was likely to be an unfavourable witness, that they would take no specimen of these gentlemen and ladies, lord Llandaff and others, who might have been called and examined to the same effect—and I suppose it was out of pure consideration and kindness that Mr. Craven and sir William Gell were left to be called for the defence; that Dr. Holland was considered to be a most mischievous person towards the Queen, and that he who had had an opportunity of dining at her table at Genoa every day, and did often dine there, would have deposed to facts extremely likely to produce the conviction of her majesty. If so, they have had an opportunity of drawing out those facts, not by the tardy process of an examination in chief, to which my learned friends

have so great objections, but by that clear and powerful and compendious process which they know so well how to employ —cross-examination, which admits of leading questions, which courts inquiry, and which allows every thing to be raked up of judgment, opinion and belief, and which they have had an opportunity of applying to those four witnesses, who should have been the first four on the brief of my learned friends. Why! am I to be told that those witnesses are immaterial; that they prove nothing; and that they do not go to the direct facts of the case alleged? I say, they do go to the direct facts of the case. I say that they give the clearest and most decisive negative to the fact of public scandal, and I say, they disprove, as far as argument and inference can disprove, the existence of any adulterous intercourse; for there is no attempt to disguise or conceal. The promotion of the individual is attended with circumstances that appear to account for it; and there is nothing in his manners towards the princess or any other individual, that marks an improper assumption of those privileges which an illicit answer would entitle him to claim. And when this bill is founded on the supposition of the low, menial, and degraded capacity of the individual so promoted, I think it would have been but fair to inquire under what circumstances he was received into the service; under what circumstances her majesty was placed when under the necessity of choosing a new chamberlain; and to consider whether it was possible, under such circumstances, to have raised a man to that office who was more likely to fill it with ability, discretion, and propriety.

My lords; I perhaps ought not to go through—particularly through—all the evidence we have called; and yet that is my more peculiar duty. I should refer otherwise to William Carrington, to John Whitcombe, the servants of sir W. Gell and Mr. Craven, who gave the most clear reasons possible, that the whole story of the supposed illicit connexion at Naples is a pure fabrication of Demont—otherwise, I might refer to all the subsequent witnesses on our part; to Sicard, who negatives other circumstances, and to Dr. Holland who negatives part of the evidence of Majoochi, and to Mr. Mills, and indeed to every other person who appears on behalf of her majesty. But it is not necessary I should go minutely into those particulars, because we have done more than was enough—we have disproved, in many points, a case unworthy of credit——we have answered, by express contradictory testimony, the testimony of witnesses who stand self-convicted, and self-condemned. We have done more than we should be called on, in any court of justice to do, when we condescended to give an answer to such animals as were brought against us. Every attempt at contradiction has been evaded by my learned friends—every opportunity of contradiction has been successfully seized by us. In every single point where it was possible to show a falsehood, that falsehood has been distinctly proved; and it is quite impossible to suppose, that your lordships will for a moment give ear to the insinuation, that those who are thus contradicted and discredited in every point where other witnesses could be brought to bear on the same facts, should be entitled to a moment's credit and belief, where the facts rest in the knowledge or invention of themselves alone. Need I refer more particularly to Sinigaglia, Scharnitz, and Carlsruhe—those atrocious causes of conspiracy—those attempts at suborning witnesses; and to the attempts to convert innocent facts to wicked purposes? for that is a circumstance that gives us the justest reason to complain of the conduct of Demont, in abiding by her majesty three years, when the facts are supposed to be committed, and afterwards coming here with those facts. That mode of proceeding it is quite impossible to grapple with in any other mode than that which we have adopted.

My lords; I am quite aware that it will be expected of me, to say a little upon the subject of the witnesses whom we have not called; and here, my lords, as in every part of the case, I beg leave to contrast, in principle and in substance, the situation of an accuser and of an accused. Every prosecutor who pretends to come forward in behalf of public justice, is bound, by the duties of the office he has assumed, to lay before the court and the jury who are to try the charges he adduces, all the evidence that can bear upon them either way. What, then, shall we think of that prosecutor, who puts up a *primâ facie* case of charge against the first individual in the country, but knowing, or having the means of knowing, that that *primâ facie* case of suspicion is capable of being removed by clear evidence,

if he will follow that evidence to the extent to which it may be taken, declines to make that examination, or keeps that evidence in his pocket, or lets the *primâ facie* case be proved by a witness who knows the excuse, and leaves it to chance whether the defendant shall discover it or not. I know not with what face my learned friends can call on us to call more witnesses, when they themselves have been so cautiously abstemious in calling all those individuals they were not afraid to vouch, whose names they referred to, whose motives they speculated on, whose conduct supported the facts they were proving by other means, when those individuals would have disproved the facts. This is new in the history of English justice—it is quite new, that a case of belief and suspicion, extorted on cross-examination from the witnesses who deposed to important facts on behalf of a defendant, should be tortured with an inference of guilt with regard to those facts which admit of clear proof in the first instance, which might have been brought to the test of complete examination, if the duty of the prosecutors had been honestly performed in calling those other witnesses who knew the existence of the whole of the facts. And, my lords, see the effect of this in a case like the present bill! Not only do we take the chance of having every unfavourable inference and fact proved that is immediately connected with the crime with which we were charged, but we take the chance of calling the witnesses we have placed before you, and the frailty of their memory, running through six years, and the weakness of their nerves when brought before such an assembly as this—of the forgetfulness and the delusions of memory, and the delusions of the mind, and of the little triumph we see produced, whenever any thing like a slip occurs, that can expose our witnesses to the suspicion that their credit is questionable, or that their memory has not performed its office.

But then we have gone much further —for we have shewn, not only that the individuals have not spoken truth, and are not entitled to credit in a common court of justice, but we have shown such practices employed to collect the evidence, such bribes offered, such means resorted to, as perhaps were never disclosed before in the history of English justice, for itseldom happens, that a discovery is made so soon after the event. The history of Dr. Crook at Milan, was not disclosed for many years after. The Cotten Records were searched, and then those purchases of opinions from the doctors of that day were discovered, which does not give so much value to their authority as they would have had if those bribes had not been given. But if the authority of the doctors is varied by the amount of the fee, what shall we say to witnesses, discarded servants and domestic traitors, who offer themselves against their benefactress in the course of this most interesting inquiry, affecting her life and character, and who come forward for corrupt and selfish purposes, to destroy that character on which they had passed just encomiums, and shown by their whole conduct to her, during the whole course of the time of the crimes committed, that they knew that the charge that they now came to support, was absolutely false.

My lords; there is one topic upon which, as a matter of fact, it is quite impossible not to comment. We have been told of the conduct of the Queen as furnishing inferences with regard to several of the facts produced against her. We have been told we are to look to her conduct as raising inferences and conclusions. My lords, I am ready to abide by that test. I ask you, whether it is possible for a person so degraded, in the first place to have turned off all her servants the moment they were possessed of the most important facts, and afterwards to have proceeded in that low attachment and debauchery with an individual she had raised for the most criminal purposes, in defiance of all the principles of human nature with which we have been ever acquainted? It is one consequence of such an attachment, that all worldly considerations are lost sight of—"Not Cæsar's empress would she deign to prove"—No, if she had been the degraded mistress of a menial in her service, would she not have been willing to hide her head in any part of the continent, in the enjoyment of that luxurious retirement which was offered—which she so manfully refused—would she not have retired to the lake of Como at Pesaro, and receive her vast income. Is it possible to suppose, that, after the loss of all that makes life valuable, she would have come to this country, irritated and stung by nothing but this attack on her character. Look at the conduct of her nameless and unseen persecutors. For a long series of years, she knows her-

self to be the subject of those fatal persecutions. The death of her only daughter is immediately followed by this frightful conspiracy. The death of her last remaining protector, whose name continued a protection to her, though his affection could not be displayed—that death was announced to her, not in the terms of decent condolence or kind respect, but in the shape of a forestated decision of the parliament of England, by the cardinal Gonsalvi stripping her of her rank down to the title which, before her marriage she possessed. The very first gazette which records the first transactions of this new reign—an era in which even traitors are spared, in which felons are pardoned, in which the royal perogative of mercy is lavishly applied—the first act of that reign is the most illegal and the most unchristian act that has yet been recorded in the annals of the monarchy of England. To the Queen it is a reign of degradation from the throne which she justly fills—it is the commencement of a period of exclusion from the Liturgy in which the prayers of the people are forbidden to join her, but in which their hearts have made her full compensation for that odious exercise of unjust authority.

My lords; in such a case as this, what are we to say of the proceeding that is now before you? As a divorce bill, it exists no more. The mere fact of six years residence abroad permitted by the husband is an answer, in that point of view, to any misconduct on the part of the wife. The fact of that letter of licence, so recently granted after the marriage ceremony was performed, is of itself an answer to the bill in that point of view. But, as a bill of Pains and Penalties, degradation, dethronement, and disgrace, if you have the nerve to proceed against this persecuted and injured woman, I can only say, that it is at your—it is at your pleasure so to do; but I am sure that your honour, your justice, and your feeling will compel you to take part with the oppressed, and not give the victory to those who have thus oppressed her.

My lords; I was about to observe, that there were certain individuals whom we have not called before you; and it is simply for this reason—that our case is already proved, and that we do not think it decent or consistent with the principles of justice to overload these Minutes of Evidence, already so vast and unwieldy—we do not think it consistent with the principles of justice, to admit, that we are bound to go one step further. We heard the challenges and defiances, and we heard that Bergami might be called. This is a fiction—this is one of the unparalleled circumstances of this extraordinary case. From the beginning of the world to the present moment, no instance is to be found in which a party accused is called to prove the adultery. We are to be told, forsooth, because he knows the fact, he ought to be called to the bar to take his oath upon the subject. The answer is in a word—there is either a case against us, or there is none; if there is no case, there is no occasion for us to call a witness—if there is a case, no man would believe the supposed adulterer. That is a circumstance upon which the nicest casuist might dispute, with some prospect of success, on either side of the question; but I think the feelings of mankind would triumph over their morals, and it would be thought more excusable even to deny on oath a circumstance so degrading as that—a circumstance of confidence so unfit to be betrayed—that perjury would be thought venial in comparison with the exposure of the woman he might have betrayed into his toils. Will my learned friends show a case in which such a witness has been produced? And if not, it must be taken, that the abstinence from calling such witness must be founded in too deep principles in the nature and heart of man to be repelled, even upon this occasion, to which so many principles have been made a sacrifice.

My lords; this is a criminal prosecution of the highest kind—it requires the clearest and the most convincing proof—here have been six years of constant attention and unceasing vigilance and jealous persecution. We have heard of a distinction between a queen of grace and favour, and a queen of right and law; but this unfortunate lady has been taught to feel the difference between a husband of affection and guardianship, and a husband of jealousy and persecution; and to know, that it is possible, after the ties of conjugal affection have been broken down, to extort from the object who had a right to enjoy them, the most exact and scrupulous attention, not only to the substantial virtues of her sex, but to every appearance of every decorum of the most regular and orderly state of existence. Then let me ask you, what is it that can justify you in such a case, in passing such a bill. It ap-

pears to me, without looking to the principle of the bill (for your lordships know I am now at liberty to do so, and I only advert to it that I may not be supposed to wave it), but it appears to me, that there is not one page of evidence in this whole volume, that can warrant your lordships in passing it—there is not a single page of evidence, proceeding from any respectable quarter whatever, which has not been answered or explained; and, as to all the rest that is important, it has been contradicted so effectually in all its greater branches, it becomes immaterial to pursue it into the minuter ramifications in which the same spirit of perjury has prevailed.

I know rumours are abroad—I have heard that, at the moment we are defending her majesty against a charge, there are several persons—not in the lowest condition—not confined to the public press—not even excluded from your lordships august assembly—who are daily circulating most odious and atrocious calumnies against her majesty. My lords, at such a moment as this, can the fact be believed? and yet, can we live one hour in the world without knowing the fact is true? Your lordships know, that if a juryman, upon such an occasion, should be found to possess any knowledge upon the subject, we should be justified in calling him to the bar as a witness—we should say "Come, if you know a fact, and prove it—let us confront you with our witnesses; let us cross-examine you and see if no explanation can be given of that which is true, and whether no refutation may be applied to that which is false." But, my lords, I would tell any man whom I could suspect of so base a practice as that he should be whispering calumnies into the ears of his brother jurymen—I would say, "Come forward, and let me see your face—if you would resemble the respectability even of an Italian witness, come forward! You are worse than an Italian assassin, because you are planting a dagger in my heart unseen, and converting your poisoned stiletto into the semblance of the sword of justice!" My lords, I say it is impossible these stories can be true—I cannot say it is impossible, because I read the papers—but I should have thought it impossible for any man, with the heart of a man, of any man with the honour of a peer, to adopt such a course, I would challenge him as a judge—would impeach him as such—and if it were possible for the blood royal to have done so, I should say, that such conduct was a far more just forfeiture of his right to succeed to the throne, than all the charges brought forward to deprive my client of the crown, which she is so justly entitled to. My lords, I know there are persons—and I think under the circumstances I have a right to allude to them—I know there are persons in this House who have read a variety of depositions against her majesty. To those persons I think I may distinctly say, "You, at all events, must acquit the Queen. It is utterly impossible that your secret committee—I know nothing of the facts brought before it, but I know it is impossible for rational men—to present such a case as this is as a ground for dethroning and disgracing the majesty of the English Crown. It is impossible that such facts should have been proved before you—it is impossible but that they must have been of a more grave, more serious, more infamous description; and whether they are not proved by any witnesses who came to your bar, or whether the witnesses stated them in their depositions upon those occasions, but have not dared to repeat them, the consequence is the same; you could never mean to make out a case of key-holes and chamber-pots. You must have intended a case of profligacy and prostitution." Has that case been made out? Has it not been expressly contradicted and disproved? Is there any man who can read the evidence against the Queen, without a firm conviction that she has been most infamously traduced, and that an immense proportion of the stories against her are utterly destitute of foundation? What the boatmen of Como may have said to the idle English who were gaping wide for slander—what the rumours on the continent were, I know not; but, if they had been true, there have been facilities to prove them unexampled in the history of criminal jurisprudence. They are not proved—they are false.

May I say one word more? I know there is a spirit gone abroad in the world—at least that is the suspicion of your lordships—upon the subject of her majesty the Queen; and I have heard it said, that there has been a low sort of rabble encouraged to acts of mischief; but I know that the same person who uttered that expression was obliged to admit, in the course of a few weeks, because the truth could not be concealed, that the whole of the generous population

of England had taken her majesty's part. It is possible that these things may be true. It is certain that among all the sound and middling orders of society, these feelings do exist on behalf of her majesty. It is possible, for aught I know, that there may be some apostles of mischief in some corner, lurking to strike a blow at the constitution, and who may seek to avail themselves of an opportunity for open violence. My lords, if that be so, these generous feelings will be gratified by a verdict of acquittal that your lordships must pronounce; as those mischievous and disaffected men who must be supposed to exist would deprecate nothing so much as to see your lordships, in the face of the power of the Crown, venturing to pronounce a verdict of not guilty against a defendant so prosecuted. My lords, I trust your lordships will not allow the idea of having fear imputed to your minds, to direct you from the straight course of duty. I will venture to say it would be the worst of injustice towards the individual accused, and the worst of cowardice and baseness in any man who acted on such a principle. And therefore, I say, if your minds go along with the evidence—if you are satisfied that all that appeared important has been scattered like dew-drops from the lion's mane, and that we have even supplied some facts to the case of my learned friends which, resting on belief and apprehension, and upon circumstances which they never could bring against us—under such circumstances, your lordships will never think yourselves justified in considering whether your conduct will be imputed to dread of a mob, or Radical mobs, as they are called in the jargon of the day, which I detest—but will pursue that straight course which the principles of justice require. That course is, where the case has not been proved, to acquit the Queen of those charges foully brought up against her. Never was there such an inquiry! Never were there such means of accusation!

My lords; before I conclude, I must be permitted to say, that during the whole of these proceedings—(personally, I am sure, I have every reason to thank your lordships for the kindness and indulgence I have experienced)—but the highest gratification to my mind has been, that with my learned friend I have been joined upon this occasion, fighting the battles of morality, Christianity, civilized society—that, in the language of the dying warrior,

"In this glorious and well-foughten field
"We kept together in our chivalry:"—

that when he had gained the mighty victory which his great exertions achieved, and covered himself with immortal glory, and his client with the adamantine shield of genius and eloquence, it has been my lot to discharge a few random arrows at the defeated champions of a disgraced cause.

My lords; it is no small satisfaction that I could witness that display of surprising faculties that belonged to my learned friend, with no other emotions than those of exultation on the part of our client, that that great triumph has been achieved, and with no other sentiment except that of admiration at the prodigious powers by which it was gained. My lords, we have done. This is an inquiry unparalleled in the history of the world—this illustrious lady has been searched out and known—her down-sitting and her uprising has been searched out—there is no thought in her heart and no word in her lips, but has been brought to this ordeal—there has not an idle thought escaped, or idle look by which she has been betrayed into a moment's impropriety which has not been, by the unparalleled and disgraceful assiduity of her malignant enemies, brought against her. It is an inquisition of the most solemn kind. I know nothing in the whole race of human affairs—I know nothing in the whole view of eternity—which can resemble it, except that great day when the secrets of all hearts shall be disclosed—

"He who the sword of Heaven would bear,
"Should be as holy as severe:"—

And if your lordships have been furnished with weapons and powers which scarcely I had almost said, Omniscience possesses, for coming at the secret, I think you will feel that some duty is imposed on you of endeavouring to imitate, at the same moment, the justice, the beneficence, and the wisdom of that Divine Authority who, when even guilt was detected and vice revealed, said, "If no accuser can come forward to "condemn thee, neither will I condemn "thee: go and sin no more."

After a short pause,

Mr. *Brougham* said, that he should now consider the case on the part of her majesty closed, if the attorney-general did not intend to reply by more than one counsel. If he did, he should beg till to-

morrow, to consider whether he should not request his learned friend Dr. Lushington to take up the parts of the bill, that were of a consistorial nature.

The *Attorney General* said, that it was his intention to avail himself of the assistance of his learned friend, the solicitor-general, to which he was fully entitled, as his learned friends had both spoken in opening their case.

The *Lord Chancellor* said, it was the rule to hear two counsel on the respective sides, and that one party, by waving his claim, did not deprive the other of his right.

Mr. *Brougham* said, that as the attorney-general did not mean this privilege, Dr. Lushington would address their lordships to-morrow morning.

The House then adjourned.

HOUSE OF LORDS.

Thursday, October 26.

The order of the day being read for the further consideration and second reading of the Bill, intituled, " An Act to deprive " Her Majesty Caroline Amelia Eliza- " beth, &c." ; and for hearing counsel for and against the same: The Counsel were accordingly called in. Then,

Dr. *Lushington* addressed their lordships as follows:

If, my lords, I had been left to the exercise of my own discretion—much more, had I been at liberty to have followed the dictates of my own inclination, I should not now have occasion to solicit your lordships indulgent and patient attention. But, my lords, upon the present occasion, I am acting in the discharge of a duty, in obedience to the judgment of my learned colleagues, who have thought that this case is so extensive, in all its branches—so important—so difficult—that even after all the exertions of my learned friend, Mr. Denman, some little remains, which ought to be stated to your lordships. Your lordships must feel, that the task which I have now to fulfil is one not very easy to be performed. Your lordships attention is in some degree exhausted—the subject is in some degree become trite—then, my lords, what is my painful situation? the difficulties are accumulated tenfold, and I come to the performance of the office, conscious that the ability to discharge it is beyond all measure inferior. But, my lords, I have one consolation in my difficulties—the consolation that, in the judgment of all my learned friends, this case stands upon so firm a foundation, that even the discussion of an unskilful advocate cannot materially injure it in your lordships view. And I have the additional comfort of feeling that the power of truth will prevail, and that the more this subject is discussed, the more satisfied your lordships will be, of the innocence of my royal client.

My lords; I shall use my utmost endeavours to avoid repetition, where repetition can be avoided; but your lordships must know, that no human skill, no power of eloquence infinitely great, could by possibility bring to your lordships, standing alone, the few observations that my learned friend has left unmade. Your lordships know, that those observations never could receive their weight—hardly indeed could be intelligible—unless they be taken in reference to some of the circumstances which have been already so amply discussed.

Now, my lords, it is my duty, in the first instance, to make one or two observations upon the charge which has been made against her majesty. My lords, I have, during the whole course of my professional life, been conversant with cases of adultery; but there are circumstances in this case which, I must confess, I believe not only to be unprecedented, but of which there is not even the shadow of resemblance in all the records of past times, in those courts which have peculiar cognizance of the subject between husband and wife. It is not, my lords, that the tribunal is new—it is not for all the various anomalies which exist in this trial—it is not that the government is the party accusing it—it is not that the government forms a part of the very Judges whom I address—these things, my lords, might have occurred by possibility before; but, my lords, there are circumstances here which might, if indeed they were probable, equally have occurred in other instances.

My lords; the first which I advert to, is the age of the party accused; and this I venture to say without fear of contradiction, that no precedent can be found in modern times, where a husband has sought to divorce himself from a wife, accusing her of adultery at the age of fifty. My lords, this is one great and extraordinary discriminating circumstance in this

case—it is an improbability which I think well deserving your lordships serious consideration. Of wives separated from their husbands—of wives who have scarcely ever lived with their husbands from the day that their marriage was celebrated—there are instances without end; but not even in any one of those cases, nor in any other case where wife and husband have cohabited down to the very period when a divorce has been sued for, is there one where the wife has attained the age, I believe I may say, of five and forty.

My lords; there is one other circumstance—the husband of the lady accused has been twenty-four years separated from that wife—separated, my lords, by his own act, by his own choice, by his own free will—separated, my lords, not in consequence of any misconduct of that wife—not in consequence of even a breath of suspicion having at that period attached to the character of his royal consort, but in the wayward indulgence of his own fancy, breaking asunder the solemn bonds in which God had united them—for the sake of self gratification was the husband separated from his wife —Now, my lords, how stand I then? were his majesty a simple individual, lives there in the world a man so bold who would dare to tell your lordships that he had a title to complain—that he had injuries which ought to be redressed—that he had laboured under inconveniences from which he ought to be relieved as a husband? My lords, then the King has no right to seek redress. Let no man dare to say, that though the King is relieved from various sanctions of the laws of men—let no one within these walls presume to say, that he is emancipated from the law of God—let no mind dare to say, that the assertion in this bill is not founded in utter falsehood—"Whereas her royal highness, further unmindful of her exalted rank and station, and of her duty to your majesty"—what duty, my lords? what duty that is not reciprocal in the marriage life? Is there one divine law for kings, and another for men? Is the plighted troth at the altar to bind the simple individual, and set free the king upon his throne? Is there one divine law for the common individual, and another for the sceptered monarch? My lords, what is the plighted troth, and how has it been kept and preserved? "To love"! where shall I seek for the marks of it? "To comfort!" where shall I look for one trace of it? Shall I go back to 1806? Shall I come to 1813? Shall I look, my lords, to the intercourse between the mother and the child? "To honour!" Has that been observed? We know that when exiled from this land the spirit of persecution lived, and followed her even to her resting place—my lords, it is to me inconceivably painful to dwell upon these subjects; because I know and feel, that every discussion on these topics shakes the throne and weakens the monarchy. I know, that when the private acts of kings are brought before the world, there are individuals without number to whom it is a pleasure and a delight to magnify their errors and to exaggerate their failings. My lords, that is not my will. It is the discharge of a solemn duty which has compelled me to advert to it. I have done it as speedily as I could; and I leave it with the greatest pleasure.

My lords; thus far it were almost needless to follow a subject of this description; but, if I were to take that topic which if mentioned in a case, and if true, at once rouses the attention of the judges—what should I say upon connivance? My lords, what should I say of a husband insensible to his own honor—what should I say upon the offer of fifty thousand pounds a year, on condition of living abroad, without a single restriction, without one single direction that the adulterous intercourse imputed should not be carried on in all its gross impurity? What should we say to an individual who came here and prayed for justice acting thus? who has said, "go your ways," not as my learned friend Mr. Denman said last night, "and sin no more," but "go and indulge your passion; revel in all the profligacy of degraded intercourse; and you shall be furnished with the means?"

My lords; I am happy to say, that I am not under the necessity of introducing another topic to your lordships consideration—I am not under the necessity of saying one word upon recrimination. We have adduced no evidence—thanks to the wisdom of my learned friends who confidentially advise her majesty—thanks to her discretion and propriety—this House and the nation are saved the consequences of such a measure. But, my lords, without that, I say again, that unless your lordships are prepared to violate the law of God and man—unless that reverend bench which forms a part of those judges whom I now address, are prepared to

forget and abandon the tenets of the gospel, it cannot—it dare not—pronounce for this divorce.

My lords; before I enter upon an examination of the evidence, permit me to say a word or two as to the principles by which your lordships are bound to try this case. It is not, my lords, that I seek to obtain at your lordships hands an acquittal in point of law—it is not that I think the case requires that I should adhere to nice technicalities, but it is to prevent your lordships from being misled by my learned friends on the other side. My lords, his majesty's solicitor-general in summing up his case to your lordships quoted a decision of the learned judge who presides in the consistorial court of London, a decision which was given in the case of Loveden *v.* Loveden. Now, my lords, to the soundness of that authority—to the matchless talent of that judge—no man bows with greater deference than I do—no man has had greater opportunities of knowing and esteeming his wonderful powers—but I am surprised that my learned friend should have sought, from an insulated passage, to extract a principle applicable generally to cases of fact, as if, my lords, any human being supposed that adultery was a crime the proof of which was to consist in the establishment of certain things certain indiciæ of proof, which never existed in any other case. Now, my lords, these are the words quoted, speaking of the circumstances. "It is not necessary to prove a direct fact of adultery—it could not be so proved in one case in a hundred. It must be deduced by inference leading to a just conclusion. If this were not sufficient, there would be no protection for marital rights. It is not necessary to enumerate the various grounds of inference—many are mentioned in the ancient writers. But, besides those, there are many others depending upon general manners and other incidental circumstances, which are continually changing. They must be such as to lead a reasonable and just man to the conclusion of guilt. It must not be a rash conclusion, or founded upon artificial reasoning. It must not be different from what would strike a plain man." Now, my lords, what do your lordships suppose was the situation in which sir William Scott was placed when he delivered that memorable judgment, argued, as the case was, at great length, discussed and disputed in two courts? Why, my lords, sir William Scott said this, "Here are acts of indecent familiarity proved by witnesses above all exception." My lords, what more did he say? "Here are the letters of Mrs. Loveden, the intercepted letters from her to Mr. Barker," of what nature and description and what character do your lordships think? "Such," says sir William Scott, "as many a woman who would have entered a brothel would have been ashamed to have written." My lords, to the contents of those letters I will not allude, save by saying, that no man alive could read them and not have a most perfect conviction; and legal proof too, that the fact had taken place. But, my lords, as I am talking of legal grounds, permit me to state one fact to your lordships—the letters were evidence against the wife in the ecclesiastical court, they were no evidence against the defendant in the action for damages, and the jury acquitted that defendant, or rather I should say, there was a verdict for the defendant. All the other evidence, as your lordships know, was there; every thing else was before the jury; but there was a verdict for the defendant, although amongst other things, as my learned friend reminds me, Mr. Barker had passed a night by stealth in the room of Mrs. Loveden, though how far she was there at the time there was some doubt left upon the case.

Now, my lords, I think it is a little unfortunate, that my learned friends should have selected this case for their principle; but I am happy to say, that upon another occasion which I shall shortly allude to, the same learned judge did draw a distinction which I only wish your lordships to draw for the sake of preventing error and (I repeat it) not because my client's case requires it. My lords, in the case of Mortimer *v.* Mortimer decided in July 1816, the proof was so strong, that the counsel for the wife were upon the point of declining to argue it—that learned judge who, whatever be the station of the parties never forgets the interests of justice, insisted upon that case being argued, and, my lords, it fell to me to argue it. So convinced was he of the guilt of the lady, that he actually allowed additional proof to be brought in after that hearing, and when he gave his sentence pronouncing that the husband had failed in proof of the adultery, he

used these memorable words—"I may have a moral conviction of her guilt; but I have no judicial proof." My lords, again I beseech your lordships, not for one instant to suppose that I am asking from your hands a verdict, because there is a deficiency of legal proof against your moral conviction. My lords, I ask for a verdict because I say that there is no proof in the present case which any man of honesty, of discretion, of judgment and of common diligence, must not repudiate as utterly destitute of all credibility. I have my lords adverted to this case, that your lordships may not run away with the erroneous idea, that adultery is to be established by any other proof, by any other evidence, in any other form, than that in which any other offence is to be proved before your lordships.

Now, my lords, if I may be permitted to state the case as I understand it—in two words, it is this—there is ample opportunity for adultery no man can doubt it—here are circumstances which, when coupled with the opportunity, lead to a demonstration of the guilt of the party accused. Now, my lords, that opportunity for adultery should be the ground of finding a verdict of guilty against any human being, not one of your lordships would allow for one instant; but I admit, that if you see acts of indecent familiarity clearly and satisfactorily established in evidence—and if you see the parties seeking opportunities in which a criminal intercourse may be enjoyed—coupling together these two circumstances, I admit it is not necessary to go further. But, my lords, the circumstances must be proved with the same degree of certainty as the opportunity.

Now, my lords, if I were to argue this as an ordinary case, do your lordships suppose that I should trouble you with a long argument in disproof of many of the minor charges which have been made against the Queen upon the present occasion? No, my lords, I will tell you how I should treat the question. I should show you, that Demont was perjured—I should show you that Sacchi was perjured—I should show you that Restelli and Majoochi were perjured—and, if your lordships had not before I had got to the end of my argument stopped me, I should have been inclined to throw up my brief at that instant. For when I had shown that the four principal witnesses in the case had been guilty of perjury, is there any judge to whom the principles of justice are in any degree familiar, that would allow a defendant to be put upon his trial upon minor charges, supported by weak evidence? Gracious God! where would be the security of life, where would be the safety for any man's life, character and property—where would this end? "I have shown one, two, three, four, five, six perjured." "Go on; if you do not prove the seventh and the eighth, you shall have a verdict of guilty against you." Why, my lords, how is it that, by the wisdom and mercy of Providence, we are often enabled to detect foul conspiracies or wicked projects? By bringing to light or by contradicting certain parts of the falsehoods which have been uttered. But that gracious Power which has given us the means of so elucidating truth, has not given the ability to man of following it beyond the bounds of necessity, or of throwing open all the various paths of iniquity, as if they were viewed with the omniscient power of the Almighty. We, my lords, can only ascertain the truth by that limited examination which our restricted faculties give us. We can only find certainty, by fixing upon those safeguards which reason and justice have assured to us.

My lords; on whom, upon the present occasion, lies the burthen of proof? Those of your lordships who are even ever so little cognizant with proceedings in courts of law, know the duties which attach upon him who affirms any proposition. You know that the plaintiff in an action is bound to make out his demand. Much more, my lords, do you ever hold in sacred remembrance, that he who seeks to take away the life or character of an individual, is bound, by every principle of eternal justice, by every rule recognised by the law, to establish that guilt by full, free, unsuspected, and unsuspicious testimony. He has no right, who takes upon himself the odious character of accuser, to say, "Thus far I will go, and no further. I have done enough, that you the victim (it may be) of my malice, shall not depart out of court without a suspicion upon your fame and character." That, my lords, will not do—he must take out the whole—the failure of his proof is the justification of the accused—no individual yet alive in any country, in any mode of trial, I believe, since the dark ages, was ever put upon the task of first establishing his innocence—since the day when the folly

and superstition of our ancestors led their miserable victim through ordeal fires and across burning ploughshares to take the risk of life and death—never since that day has any one yet been asked to prove his innocence in the first instance.

Now, my lords, I come to the last of this case—I come to the consideration of those charges which my learned friends say they have clearly proved; that they are irreconcileable with innocence; that they are the forerunners of guilt. My lords the first case is the conduct of the Queen towards Bergami. My lords, his majesty's attorney-general, commenting with great ingenuity upon the facts which he was to prove, adverted to the principles which governed human, nature and said, "I will show you, that the Queen so conducted herself, that guilt is the necessary inference to be drawn. I will show you, that she was so much under the influence of passion, that his will was her way, his pleasure almost her duty; and then," said he, "if I prove these facts, an intercourse of the greatest familiarity, a degrading intimacy must have taken place, that can have only arisen from the last favour having been granted to Bergami." Now, my lords, what are those facts? My learned friend, the attorney-general, says, "the natural effect of such an intercourse is, to alter the comparative distance between the parties"—my lords, it is verity itself to say so—"I mean, the distance which ought to exist between a person of royal rank, and one of her menial servants. But, when once a person of that exalted rank demeans and degrades herself, to such an intimacy as that which I have described, it naturally creates, in the manner and temper of the person with whom that intercourse is formed, a freedom and an assumption which, under other circumstances, he could not venture to assume. My lords, such was the case here," says the attorney-general: "it was observed by the domestics that Bergami's conduct was more haughty—that there was an assumption of more importance—and the whole demeanor of her majesty towards this person when she was unobserved by those persons of rank and station about her, was such as convinced those who had an opportunity of observing it, that this intercourse subsisted."* Now, my lords, I undertake to demonstrate to your lordships, by the evidence which has been produced in this cause, that no such intimacy—that no such familiarity ever existed—that there was no want of respect, no want of regard, to all the decencies and decorums of life, from either of those parties to the other. Your lordships will, I am sure, feel, that I should not discharge my duty, when I make an assertion so broad as this, if I did not point out to your lordships the evidence upon which that assertion is grounded—that evidence upon which I feel myself entitled to say, it is indisputably proved.

First, my lords, I take the adverse evidence; and your lordships shall see how credible and how deserving of attention it is at your lordships hands. First, my lords, we have Majoochi, in page 10, "Pergami had more authority, higher authority. There was rather"—good God, my lords, after such an opening,—"There was rather a familiarity." This was their chosen witness—the man nurtured for the task of coming here to betray his sovereign. This, the hand of their cause, can bear them out no further in their ground, than that there was "rather a familiarity." "Was there an apparent distance kept up between the princess and Pergami, or was there an apparent intimacy and friendship between them?" "Rather a familiarity." And here, by-the-by, give me leave to observe, that my learned friend the solicitor-general put his questions so ingeniously throughout this examination, that the witness always knew, to demonstration, what answer it was that he wanted: he drew the contrast between the distance and the familiarity, so that this witness knew perfectly well what was required: but, after all, that is the sum total of his evidence.

Now, my lords, I come to the evidence of Demont, p. 257. "From the moment that her royal highness reached Naples, she and Pergami were very familiar one towards the other." In p. 265, the same witness states, that "at Milan and the Villa Villani she made no observation whatever." My lords, I really thought this was a shrewd lady when I saw her—I thought she was as likely a person to have made observations upon every thing, as any individual I ever set my eyes upon; but, my lords, as it has turned out, she made no observation except, that Pergami and her royal highness were very free towards each other. Now, my lords, I do believe that, with the exception of two or three of the masons, admirable

* See Vol. 2, p. 748.

judges of the conduct which the Queen ought to observe towards her chamberlain—with the exception of those persons, who were pleased to say, that they walked together like true friends—like husband and wife—in the whole of this evidence your lordships will not find one single affirmative assertion of this existing familiarity.

But now, my lords, let us look on the other side. I have to present to your lordships the testimony of twelve witnesses, going over not only the time when this intimacy was said to be at its height, but about the Queen's person, from her entrance into Naples, until she left St. Omer's. We shall see what sort of testimony they have given—I will not dishonour them by comparing their credit with the two witnesses I have before adverted to. My lord Guilford is asked, in p. 507, "any improper familiarity?" "No, certainly none." In p. 508, "Nothing particular in the Queen's manner to Pergami." In p. 509, "Pergami's deportment nothing particular, very respectful—the manners of Pergami were perfectly unobtrusive, not forward." My lords, this is the evidence of that nobleman.

I come next to the evidence of lord Glenbervie in p. 511, "Pergami's conduct to her royal highness that of a servant — nothing like disrespect." Now comes lady Charlotte Lindsay, whose testimony I think, was given in the fairest and most honourable manner, and who, I think, was unduly used by my learned friends on the other side. In p. 514, your lordships will find this: "Pergami conducted himself towards the Queen as a person in his situation would naturally conduct himself." Now, my lords, mark that lady Charlotte Lindsay was with the Queen in the months of March and April 1815, when this alleged intercourse was said to have subsisted five months. Is she, my lords, a person so destitute of penetration, so deprived of the ordinary power of observation, as to have let any thing pass unobserved in the conduct of her royal mistress. The House at large can judge from the talents she exhibited when she was examined—every individual who has had the honour of her acquaintance knows, that for sagacity, for talent, and for ablility, she is infinitely above the usual standard of her sex. Now, my lords, again, "the Queen behaved to him as a mistress to a servant"—when she is speaking of that fact, the manner which the Queen used towards her servants, she says, "The same familiarity as to Sicard and others."

My lords; I now come to the earl of Landaff. He says, that he saw "nothing improper in the Queen's conduct or demeanor—nothing likely to reflect disgrace upon the country." Mr. Craven, in p. 537, saw "no impropriety of conduct, or degrading familiarity;" and this, my lords, neither at Naples, when Bergami was a courier behind her chair, nor subsequently when he sat at the same table with his royal mistress. Now for sir William Gell; in p. 559, he says, "There was nothing indecorous or improper in the least. Pergami acted as he ought." And now for this question, such as I believe seldom has been put in a court of justice, for the purpose of examining into the guilt or innocence of the accused—not, my lords, that I mean to complain of the question upon the present occasion: because I have felt throughout the whole of this trial, "Give me but an honest witness, and ask what you please—give me but one who has the sanction of an oath to bind—who has a character to lose—who has some pretence for standing in the world upright—away with the forms of law; away with all the technicalities of examination, cross-examination, or re-examination—search and probe to the bottom—it is sound, and will bear it." My lords, this is the question, "Did you ever observe any thing in the conduct of the princess to Pergami, in her conduct, manners, conversation, or looks, to induce you to entertain an idea, that there was an adulterous intercourse between them?"* Now, my lords, see how her majesty has been tried—see to what an ordeal of unheard-of severity she has been exposed! If in the course of the residence of sir W. Gell with her at Naples—if in the course of the subsequent three or four months that he again joined her at Ruffinelli—there had been one single act of impropriety, one loose expression escaping either in wantonness of joy, or in the innocence of overflowing gaiety—one even dropping under feelings of irritation—one word—one act—one look—which for a moment had clouded his mind with suspicion, what must have been his answer to such a question? Gracious God! My lords, to be tried—not by facts which you all judge of—but to be tried by the possibility of suspicion

* See p. 360, of the present Volume.

having crossed the mind of those with whom you have lived—when there was no tie upon the tongue—when the heart and the soul were released in all the confidence of unsuspecting intimacy, so to be tried and so to be acquitted, show me in this world the parallel! Sir William Gell says, first, "I never saw the Queen speak to Pergami but on matters of business, though I was in the house three months at once with them." "Can you give a more distinct answer?" "I never did." And yet, my lords, my learned friends will presently call upon you to form conclusions from those circumstances such as the individual who gave them never once—not formed conclusions—my lords, what am I speaking of? never once entertained even the shadow of a thought.

"But," say my learned friends, "these were individuals of high rank and character; the Queen was upon her guard with them." My lords, I will beg leave therefore to introduce to your lordships notice one of a different description. At p. 594, Sicard first says, "the Queen's manner of treating her servants was uncommonly kind, almost to a fault—Pergami's behaviour was always proper."—"Did you ever see any impropriety or familiarity between her royal highness and Pergami?" "Never, never."—"What was the Queen's conduct to Pergami?" Now, my lords, what does this fold servant of the Queen say? "Her manner of treating her servants was uncommonly kind, almost to a fault." He, my lords, for twenty years has experienced that kindness. How melancholy is it to think, that that feeling of kindness and benevolence which has endeared her to the hearts of all who knew her, whether they were subject to the dictation of her will and pleasure, or whether they were destined to the happier fate of enjoying her society, should now be converted into crime, and turned, as it were, into poison, to destroy her who showed kindness even to her persecutors! She forgave the ruffian Credi, though he had sold himself to destroy her honour. She has forgiven those who have done her evil ten-fold ten times—that very disposition to kindness is now to be construed into familiarity of a licentious nature! My lords, I would say here, that I feel Sicard's evidence to be true. In the course of this inquiry, particularly whilst my learned friends were absent, day by day it was my painful task to harass and distress her majesty with nauseous inquiries—necessary, but still nauseous—when she was tired and fatigued at meal-times; yet, my lords, upon all occasions I found the same condescension, the same regard for the comfort and feelings of others, which all who have been examined, give her the praise of—which she is as remarkable for having shown to others, as she is as remarkable for having herself experienced the very reverse. My lords, Sicard farther is asked, "Was this manner towards her servants generally to all her servants, or was it confined to any one individual among them?" "To all."

Now, my lords, Dr. Holland says, that the behaviour of Bergami to her royal highness was "unpresuming and respectful," My lords, what! was it unpresuming and respectful? Why, Mr. Attorney General, what becomes of this "freedom and an assumption, which, under other circumstances, they would not venture to assume, my lords, such was the case here." Was it the case here, my lords? We will follow on the train—Dr. Holland, denies all impropriety of conduct—he never observed any indecent, improper, or immodest behaviour. Then he is asked this question,—a question of opinion—"Did you see any conduct calculated to bring disgrace upon the character of the country?" "I believe I can answer decidedly not." * "The Queen's demeanor to all her servants was extremely familiar. I should say at once,"—now mark it, my lords, this is p. 620,—"that I never observed any difference between her manners to Pergami, and her manners to her principal servants." † Now, I ask, whether it is consistent with possibility, that the Queen, if under the influence of this passion carried away to disgrace herself, could so control herself, could so place her conduct in trammels, that Dr. Holland could give this evidence with truth?

Now, my lords, the next is Mr. Mills, in p. 622. He saw them together frequently—his evidence applies to three periods, to Rome in 1817, to Pesaro in 1819, and to Rome in 1820; and he says, that he "has seen them together frequently, but that he never saw the smallest impropriety of conduct." At p. 624, he says, "There was no difference in the Queen's household in those three periods." "He never saw any thing in the slightest degree derogatory to the ho-

* See Vol. 2, p. 748.

† See p. 425 of the present Volume.

nour of the English empire, or calculated to wound the moral feelings of the country." Again, "Nothing in public or private to which a just exception could be taken."—Again, when asked this question, "Did Pergami treat the Queen with the respect due to her exalted rank."—"I never saw him behave otherwise than with the utmost respect."*

Now, my lords, consider this, that even in the year 1820, Bergami treats the Queen with respect. Why, my lords, is that possible—is it consistent—if he had ever at any one time been on terms of criminal intimacy with this lady—if he ever, presuming upon that intimacy, had treated her with disrespect, I ask my learned friends by what process of the human mind, by what analysis of the human character, by what mode of reasoning, or, if reason they have none, by any thing bearing the slightest degree of similarity in any former case in the whole world, they ever knew respect returned after it had once been violated by the knowledge that a criminal intercourse subsisted between the parties. Mr. Attorney General might as well seek to demonstrate to your lordships, that the water will flow up to its source, or that impossibilities are capable of proof.

Now, my lords, I told your lordships I would show you that Bergami's conduct towards her majesty was so at the beginning, so in the middle, so at the end. Hear lieutenant Hownam—he was three years with the Queen.—At p. 723, † he negatives all impropriety, indecency, or any thing degrading to the Queen.—He says, he "never saw the Queen walk arm in arm with the baron until he dined at table constantly." I come now to Olivieri: "The manners of Pergami were those of a respectful servant." He says, he "never saw any thing improper or indecorous in his conduct towards the Queen." He describes her manners in these terms: "Her conduct and demeanor towards her suite was affable, but dignified." ‡

My lords; the last of these witnesses is Vassali, and he says, staying with the Queen up to the time she left St. Omer's for England, that "he has never witnessed the smallest impropriety of conduct between her and the baron." I trust, my lords, I may now be permitted to say, that I have, by reference to this evidence, demonstrated the truth of the proposition I set out with—that the conduct of the Queen towards this person during the time that the bill charges, was perfectly consistent with their relative situations in life, perfectly destitute of all culpability, and that that ground which the Attorney-general so ingeniously endeavoured to lay for his proposition, falls from beneath his feet, and leaves him to combat the remainder of the facts without any thing in the nature of an inference even to support the alleged criminality.

My lords; the next statement was, that the Queen had parted with her English suite. Your lordships will ever bear in mind, that these circumstances, taken individually, no man would rely upon; but they have been, by my learned friends, carefully formed into a whole, so that though no one could rely upon one singly, if taken as a whole, they might go to establish conviction. Now, my lords, my mode of disposing of this case is, to show your lordships that each and every one of those averments are unsound. Says, my learned friend, the Attorney-general,—"Here is a fact that needs no comment; it speaks volumes." My lords, it is put thus—the Queen having formed this degrading intercourse, conscious of the shame that attached to her conduct, fearful lest her guilt should be detected, and all the consequences of infamy and disgrace poured upon her head, by ingenious contrivances, manages to dismiss all English persons of respectability who were about her, that in secret silence she may indulge in all the excesses and wantonness of lust. Now, my lords, let us see how that fact stands. The first who attended her abroad was colonel St. Leger. What says he? "He attended her abroad, but his health compelled him to leave her at Brunswick." In 1819, he prepared to meet the Queen at Dover; and, my lords, he has paid her his dutiful respects since her return.

Now comes lady Charlotte Lindsay. She informs you, that she "quitted in consequence of previous arrangements." My lords, that fact alone would be sufficient to rebut the whole presumption on which my learned friend built, in order to show that the Queen had voluntarily parted with her. Now, my lords, what is another fact? She is asked, "had any

* See p. 429 of the present Volume.
† See p. 512 of the present Volume.
‡ Ibid, p. 920.

application been made to your ladyship to join her royal highness in Germany before you took the resolution of quitting her?"—"Yes, there had." * Now, my lords, look ye here—in 1817, when the Queen had returned from the long voyage, when, according to the statement of my learned friends, she was spending day and night in adultery, by day and by night indulging in passions to an excess that never existed, I believe, but in the prurient imaginations of the present prosecutors—then, at that very time, he sends for lady Charlotte Lindsay to come and bear her testimony of the depth to which the Queen had degraded herself. Such a witness, my lords, speaking against the Queen would, as my learned friends have said, require no comment, it would have spoken volumes; and the sending back for that witness at this hour, does not that speak volumes? does not that show a conviction of innocence—a consciousness that, in respect of her manners, her conduct and behaviour, the Queen of England had nothing to fear?

My lords; were it necessary to follow this subject in detail, I could point out other evidence of the same nature; but I must first advert to an attempt which has been made by my learned friends—not to invalidate the fact of the application to lady Charlotte Lindsay to return—but to find out, from the conduct of lady Charlotte, that at some time or other in her life she may have entertained an opinion derogatory to her majesty. My lords, it is worthy of the prosecutors in this case, it is consonant to all their conduct, it is agreeable to the whole that they have done from the beginning, to violate the sacred confidence which subsists between husband and wife, and bring before your lordships, if they can, the secret correspondence which that wife addressed to the husband, for the sake of blasting the character of the Queen. My lords, what do I feel? from the bottom of my soul, pity and commiseration for my learned friends, who have been compelled to obey such instructions—horror, indignation, detestation of him who so procured the means of knowledge, who worked upon the indigent husband to blast at once the credit of the wife, and damn the character of his Queen—never in the history of man, never, my lords, except in the annals of the Old Bailey, was conduct like this brought to sight, and to exposure: and, after all, what does it come to now, tho' even the contents of this confidential communication are inquired into? That lady Charlotte Lindsay never in her life saw the smallest impropriety of conduct, but the reports communicated to her had made an impression on her mind. —That the reports were so spread—that they had made such an impression—are facts I have no interest in denying.

Now I come, my lords, to Mr. Craven. He says, that so far from being dismissed, "he staid four months longer than he originally intended." Sir William Gell says, he "left at Naples, because he had the gout." He was again in waiting, on the Queen's return from her long voyage, and again in 1820. So much for sir W. Gell, who actually did return to the service of this debauched princess, and remained with her as her joint chamberlain with Bergami for three whole months. This, my lords, is another specimen of the dismission of her English suite. My lords, it is so with Sicard. He left, it being necessary that he should come to England; "the Queen made him promise to return; that return was put off in consequence of her going the long voyage." Dr. Holland says, he "left, by his own desire to go to England—he was to return, but the Queen's pecuniary concerns becoming embarrassed, he did not." Now, my lords, so much for the Queen purposely and wilfully getting rid of her English suite! But there is another thing—a most strange anomaly in this lady's conduct; for, at the time she has secured to herself this secluded enjoyment of her passions, when she has stopped up all avenues to discovery, by some most wonderful fatality she calls to her side to be her perpetual companion, lieutenant Hownam—no Englishmen, my lords—none!—Genoa is the fatal place! There she is so entrammelled by the fascination of Bergami that all are sent away! Yet, strange to say, at that very moment does lieutenant Hownam join her, and continue at her side for three whole years!

Now, my lords, I have disposed of those two heads of accusation. There is another which I am most happy to say will occupy your lordships not two minutes. It was said, my lords, that the Queen of England not only got rid of her English suite, but that, forgetful of the decencies of life, forgetful of ordinary

* See p. 318 of the present Volume.

decorum, forgetful of her former habits, she avoided all society of rank and consequence, in the various countries she visited. My lords, from the beginning to the end, there is not one syllable of evidence to support this assertion. I will not detain your lordships by reciting the names of all the persons by whom she was visited, but I will merely give you, two or three. Dr. Holland says, the princess "was visited at Naples by all the principal nobility, English and Neapolitan;" and at Genoa "by all the English." My lords, at the very moment when the Queen was opening her hospitable door to the reception of the English, that is the period fixed upon by Dement to endeavour to excite odium against the Queen, by putting into her mouth a desire to avoid their society. I take the act against the assertion, as I would do, even if the assertion had come from a credible witness.

My lords; there is not a court in Europe or in Africa which her majesty did not go to. She is received every where with the greatest respect and attention; and, as lieutenant Hownam says, what was her conduct?—"Majesty and grace"—a tribute paid to her, in nearly the same words, by one of the right hon. colleagues of his majesty's government,* who, to the honour of himself and to the honour of human nature, disclaims all part in this prosecution. My lords, I have said at all the courts, I humbly beg your lordships pardon. There is one exception, and that exception was at the court of Vienna. Why, my lords, how difficult it is to solve the problem! My lords, at that court was my lord Stewart ambassador—the brother of my lord Castlereagh, one of the present prosecutors. And what was he besides? the foster father of Majoochi, the wholesale dealer in perjury—him it was that he nurtured in his palace, though he refused that countenance to his sovereign. Here is a reason for the exception—a reason that should remain in your lordships' minds, so long as justice and truth prevail.

Now, my lords, there is one other circumstance. "How can you," says the attorney-general, "account for the rapid promotion of this obscure individual? Here see we a courier mounting first to page, then to equerry, and seven or eight months elapse when he becomes the chamberlain of the Queen." My lords, let us see whether this too is not capable of being accounted for. What says the evidence as to the original engagement of this individual? Mr. Craven says, "the marquis of Ghisiliari, the chamberlain of the emperor, recommended him, stating, that he had known his family, and that he could recommend him strongly." Sir William Gell says, that "his family had fallen into distress; that the marquis Ghisiliari said, that he was honorable, honest, and trust-worthy." General Teuillé tells you, that "he had been in the confidence of general Pino as his confidential courier—his conduct was that of an inferior officer who had never done any thing to reproach himself with; in short, the conduct of a good soldier." He says, "he was a person who had general Pino's whole confidence," and that "he was not looked upon as a servant or a domestic." My lords, no sooner has he reached Naples than he becomes a page. My lords, if ever truth were elucidated by small circumstances all tending to one end and yet coming from the witnesses so accidentally that none of the counsel or any individual could have foretold what would be said, it is so here. Look at the following circumstance, how he came to act as page. "The marquis Ghisiliari requested that he might remain a servant out of livery when the Queen stopped any where." There, my lords, is the history of his first promotion; and accordingly, says Mr. Craven, "Pergami never wore his courier's dress after coming to Naples"—not that he did not wear it upon subsequent journies, but that he never wore it while they were resident at Naples.

My lords; he is made equerry some time subsequent. Now listen to sir William Gell: "The marquis Ghisliari said, he was above the office he was going to enter, if he behaved well, he hoped he would be gradually advanced." My lords, it is not until the experience of five months had proved his fitness for a superior situation, that her majesty advanced him to the office of equerry, at a time her majesty had, by necessary engagements in England, been deprived of the service of her confidential servant Sicard. Now, my lords, what were the other circumstances which impelled her majesty, I may say compelled her majesty, to resort to such an appointment? My lords, she had left this country under circumstances of disfavour with the court—he whom I lament to call her never-wearied pro-

* Mr. Canning. See Vol. 1, p. 962.

secutor, held the reins of power—to attend to her, to be in her favor, was to be in his disgrace—to have her countenance was to forfeit all hope of promotion here. Which, my lords, of those individuals of rank in this country would, in common justice to their children, growing into life, have suffered them to enter a service which barred during the existence of the king, all hopes of promotion and honour? No, my lords—and with respect to Sicard, was such an individual, advanced in life, competent to discharge the duties the Queen required, when it is recollected that, from the hour she left England, or at least from the day she reached Naples, she was, as Mr. Craven has told you, beset with spies. At Genoa assailed in the night—I will not say by whom—her personal safety at risk—suffering under apprehensions which even her magnanimous spirit condescended to notice—under apprehensions which she has stated to lieutenant Hownam—she required a person to protect her who had knowledge of the world, power of mind and power of body—and I think, my lords, that her selection of Bergami, under such circumstances, cannot be said to draw with it an inference of guilt, when you see how she had conducted herself before, how he has conducted himself since he has been in the service—with what propriety and respect he treated her down to the year 1820.

My lords; we have been told, that he was omnipotent in his control over her majesty. My lords, I deny that even the circumstances adverted to, in any manner whatsoever establish the fact. It is said, his brother was advanced. My lords, it is not till after the long voyage, until he too had given some experience of his deserts—it is not till then, that lieutenant Hownam states, he was raised to the rank of equerry: nor was it till the expiration of three years that the mother of this person was received as an inmate of her royal highness in her retirement at Pesaro. Now, my lords, I say this—that if the Queen had been under the influence of a guilty passion, the effects of that passion would have showed itself when that passion was at its height; Bergami would have commanded her majesty as a slave at his feet; from the very hour that once she had descended to court his embraces he would have had no mercy—for favourites, my lords, at court, seldom have much mercy, seldom much consideration, but to protect their own interests at the expense of the rest of the world. So would it have been with him. The hour which proved her guilt would have been the signal for her thraldom. She would, from that hour, have known no will but his—no pleasure but his commands—no duty but that which he pointed out to her. Could she, my lords, think you, have abandoned the delights and joys of an Italian climate, to have gone upon adventures such as few have the courage to encounter, when she might have remained—when she would have been compelled by that individual to have remained at home, that she might satiate her lust, and he might satiate his rapacity.

My lords; if we are to take human nature for our guide—if the acts of individuals are to be judged of by their reason and their object—conduct so inconsistent with guilt I believe never was exhibited. Your lordships must take it as a whole. You must not select this or that trifling occurrence, and say, at a lapse of six years, "this cannot be explained, therefore I will affix upon it the stain of guilt." Who, I ask your lordships, who in this House is so spotless, whose life so free, not only from guilt but even from the possibility of suspicion, that he would have the courage to say, "Go back six years—every the most trifling iota of my conduct shall at the very first blush and glance prove its own incorruptible purity." My lords, he who would dare say that, has, I will venture to say, less honesty, less candor, or less knowledge, than falls to the general lot of human kind.

Your lordships cannot fail to recollect, that, armed with these assertions, so little substantiated in proof, my learned friends proceeded to open the first grand scene of this melancholy tragedy. "Now" said my learned friend the attorney-general, in all the confidence of false information, in all the reliance upon circumstances which have since so lamentably failed him—"Now I will lead you to the bridal bed—Now I will show you the consummation, by proofs and evidence that he who ventures to deny his belief shall be taken for a dolt for ever." Now we come to the scene, and I venture to say that, refuted and disproved as these charges are in other parts, beyond all possibility of doubt, the evidence upon the present occasion is as strong and satisfactory as even that relating to the Sinigaglia journey, or to the Trieste expedi-

tion. My lords, in the first place, I shall shortly advert to one or two points. The adultery is laid at Naples on the 9th of November, the second night after the Queen's arrival there—Now, my lords, mark this—the Queen arrives on the evening of the 8th—she goes to a concert in the evening of the 9th—she goes to the Opera on the evening of the 10th. The story of the adultery at Naples depends solely upon the evidence of Demont; and there is this inconsistency in her tale—for she fixes the adultery to have taken place on the second night, and yet she says, it was the night when the Queen told her she was going to the Opera. Now, my lords, I am willing to take the case either way, and to show, that whether the scene be laid on the night of the 9th or on the night of the 10th, there is ample proof to show that the whole is falsehood.

Now, my lords, first we have an account from Demont, or rather an assertion from my learned friend, that the night before the Queen arrived at Naples, William Austin, for the first time was separated from the room of her royal highness. Now mark, my lords, the fact—one witness only states this, that generally Austin slept there before her arrival at Naples. But, my lords, how do we stand now? We have produced two witnesses —one Wm. Carrington, who states, that prior to the arrival at Naples he actually had slept in another room and he tells you, that he made his bed. We have farther the evidence of Mr. Craven, who states, that previous to that time he had advised the Queen that Austin should not sleep in her room because he was too old. Then he states the facts; and then comes Sicard, who says, that Austin had actually slept in the Queen's room for the first week or so. Now, if the evidence of Sicard be true, down is gone the superstructure. For my learned friends will hardly attempt to maintain, that the adultery took place in Austin's actual presence. But take it, that Sicard has made a mistake, and that Austin was displaced at the time—then, my lords, I have the evidence of Mr. Craven, that he advised the displacing of Austin prior to the arrival at Naples, and of Carrington, that that advice was actually carried into effect. So that that being the state of the case, as far as any suspicion would attach as to William Austin, I say, is not my case perfectly clear, and not even contradicted by Demont, who only says that he generally slept in the Queen's room? But before I leave this, I must make this observation—that though the whole House is at the Queen's disposal—that though, according to the representation of my learned friends, the Queen is about on that day to celebrate her hymeneal rites, she actually places this boy of 13 years of age in a room close to her, with a door of communication opening into it, he having been in the habit and custom, from his youth up to that night, according to their statement, of entering the Queen's room. What do your lordships think of that, as a method of precaution to avoid detection? he is placed in the most convenient situation to detect it. So much, my lords, for William Austin!

The next circumstance of suspicion is, that the Queen returns home early in the evening. Now, my lords, you may take the case which way you please—if that was the night, the 10th of November, she does not come home till 1 o'clock in the morning, when she is attended to her room by sir William Gell—If it is the concert night, the 9th of November, Mr. Craven was in attendance, and tells your lordships that they left about half-past 11. And so we dispose of the precipitation with which this lady of eight and forty goes to throw herself into the arms of her lover!—Now, my lords, there is another circumstance—when she comes home, she goes towards the cabinet, according to Demont's account. My lords, I want to know what secret there is in this—the cabinet was her breakfast room, and near to the cabinet was a water closet, according to the account of Sicard. She returns immediately—(for that is the very evidence of Demont)—she returns immediately, and then, my lords, Demont is dismissed. Now it has been said, that Bergami's room was placed at the end of the corridor, on purpose to facilitate this intercourse. I dismiss that, because it has been commented upon so much at length already, by simply stating, that he was there placed, according to the evidence of Sicard, without the knowledge or participation of the Queen, and for the express purpose of guarding that part of the house, there being a glass door.

My lords; here ends the direct testimony of Mademoiselle Demont; but there is other testimony, which, when carefully viewed, establishes in this part, as in the rest, the impossibility of sup-

porting, for a series of years, a tale of falsehood. My lords, Demont tells you at p. 250,* that "the large bed had no sheets; that the next morning the Queen rose about eleven, her usual time"—another contradiction to my learned friends. Now mark, my lords, the fact—"no one had slept in the small bed"—she observed, "the large bed had been occupied"—she "cannot more particularly speak of the state of it"—for my learned friend, the solicitor-general, in examining his witnesses, has no mercy upon them; if they will not go by kindness, he gives them the whip and the spur, and he will bring out, if it is possible, the contents of any deposition they may have made at any time, before any tribunal, however created. So, my lords, this witness is well spurred and whipped till she comes to her full career, and says, "I made no observation on the small bed after the second night."—Now, my lords, here goes again—"the second night the greater bed had the appearance of more than one person having slept in it." At first this witness can only tell you, that the large bed had been occupied; she cannot more particularly speak of the state of it: but mark how her memory grows—"it had the appearance of being occupied by more than one person"—the simple addition of another person inside this bed. Now, my lords, is that all; but, as your lordships know, three days afterwards we have the addition, to crown the whole, of stains upon the coverlet. Now, my lords, let us examine this—if Bergami came to the Queen that night, the small bed not being occupied, she occupied the great bed, or I do not know where she slept at all. Why, it had no sheets, according to the evidence of this witness. No sheets, my lords! Well! but such is the power of passion, that for one night, though in the month of November, though the lady is six and forty years of age, still she might undergo all the severity of sleeping outside the counterpane. But, my lords, what becomes of her afterwards? where does she sleep all the other four months? Now, I pray your lordships to observe this evidence—"Had the great bed the appearance of more than one person having slept in it on subsequent nights?" "I have always seen the same thing." What, my lords, the large bed occupied by two persons without sheets for four whole months! Gracious God! what an impossibility! for four whole months! No, but mark me, my lords, I am free to say this pinches me—I am here driven tight. What was the state of the case? Here was a week of this time that Bergami, in consequence of an accident, was unable to quit his bed, having been kicked by a horse; and yet the great bed retains the appearance of two persons having slept in it! Here is double adultery—with whom? Oh, my lords, look ye how truth will wash itself clear—how real metal will glow in its native brightness the more it is hammered and the more it is tried in the fire! Is this consistent with common truth or possibility? This lady of observation, who forgets not to examine the large bed, and to produce from it the evidence of guilt for four whole months together, tells you, "she observed the smaller bed the second night, and never observed it afterwards," though she made it up. O wonderful memory! memory which retains, in all its native strength, the evidence of guilt; which, for the evidence of innocence it leaves not a trace behind! Well might my learned friends, seeing the strength, the consistency, the credibility of this testimony—well might they say, "Here we place our sole reliance—here we rest—you call not Annette Priesing, who made the beds for the first two months." My lords, by the evidence of Demont herself, she is not the bed-maker, but Annette Priesing is. Now, by the evidence of Restelli, it appearst, hat she, in company with others, is enjoying the advantages of English air; but she is not called. Her testimony, if it could have established the facts, would have been invaluable; for she it was whose business it was to attend to the bed of her majesty. She is here; but my learned friends, in the exercise of a wise and prudent discretion, say, "No; though it is a criminal case—though we are ready and willing to take to ourselves all the credit of not being parties—we will keep her from the party accused, locked up in the purlieus of Cotton-garden; but we dare not produce her ourselves—we will rest upon the *primâ facie* evidence of that witness, who under all the circumstances, is ready to support any charge, or any averment." My lords, I leave the second night at Naples—I leave the solemnization of these unholy rites—to those priests who have introduced them to your lordships. I leave them, my lords,

* See Vol. 2, p. 1114.

if they can, now to offer another sacrifice —the sacrifice of the character and honour of the Queen, upon testimony which no rational man can credit for an instant.

My lords; one word only—for almost one word is wasted upon such evidence as that of Majoochi; but, my lords, he, not to be behind hand with his partner in the gainful trade of false swearing, has his nice little stock of adultery to produce in the cabinet at Naples. Now, my lords, two observations only; we are told this was a secret passage—that for the sake of concealment her majesty would go through this corridor, through Majoochi's room, and not venture by the larger passage. My lords, suppose I were for a moment to grant the truth of that averment—suppose I were to say, that the Queen, acting upon rational motives, was justified in seeking her way through this narrow and secret passage—my lords, that would lead us to this; that following her unholy desires, she once entered the room where Majoochi was asleep—that there having discovered him,—for he pins her down to that by his own assertion,—having gone into the room of Bergami, she thence had the good fortune to escape undetected. Now, my lords, what does she do to avoid the possible chance of meeting any person in the other passage at the dead of night? She ventures the absolute certainty of encountering Majoochi! My lords, the first time she went she might have been in ignorance that Majoochi slept there—she might have been taken by surprise—she might have entered the room—she might have been confused—she might have appeared to have retired—she might have refrained for the moment from proceeding; but, the second time she knew to a certainty there was a light in the room, and a man upon the watch. And yet, my lords, we are to be told, that any person in her senses would do—what, my lords? go that way, not from necessity, but as a matter of preference, when there was another communication into Bergami's room without going through that cabinet. If there had been no other passage into that room, it might have been said, that the Queen was so carried away by her fatal passion, that in despite of her character and her fame, she boldly ran all danger; but when there was another passage, not even an act of parliament can make us believe that she would do that which was inconsistent with the common prudence of a reasonable being.

My lords; one word only as to the ball which her majesty gave to Murat. Your lordships cannot forget the charge opened by my learned friend, of the indecent dress in which her majesty appeared on this occasion—how every one must have been shocked with it, and how, when she put on this indecent dress, she sought the assistance of Bergami in preference to that of her waiting maids. My lords, it is to the evidence alone I wish to call your attention; comment it needs none. The evidence of Demont is, that she appeared in an indecent dress, with the arms and the breasts bare; and if this alone remained, the evidence of Demont might have been struck out of your lordships Minutes. My lords, in this state she is represented to have appeared at a public masquerade, and so to have disgraced and degraded the country to which she belonged. Now, if there had been one shadow of truth in the assertion—if it had been capable of being sustained by any testimony whatever—was there ever such an opportunity for my learned friends (if those who instructed them would but once have allowed them to get beyond the limits of discarded servants and chambermaids) to have produced some of those respectable individuals who were present at the ball upon that occasion, to have made as clear as the sun in its meridian splendor, that disgrace and degradation of which my learned friends have complained. Would any man believe, that a charge so capable of proof, if true—so easily sustainable—should have been left upon the single unaided, unassisted testimony, of a discarded chambermaid? But, my lords, how stands it in fact, as well as in deficiency of proof? My lord Landaff was there; he did not observe that the dress of the princess was an indecent dress. Was that a circumstance to pass by without observation? Was not the eye of those upon her who were ready to detect the smallest failing—would they have been blinded to this breach of decorum publicly exhibited? Yet my lord Landaff knows not of it. Luckily, we stop not here. Mr. Craven says, there was nothing in the slightest degree indecent or improper—the dress was of white drapery, and came up very high. "If grossly indecent or immodest," he says, "I must have observed it." Sir William Gell states, that the Queen had an under-dress. My lords, I will not trouble you further upon this discomfited accusation, save to

say, that, fortunately, even the remnant of a charge which was tacked upon this, is also disproved. There was a charge that Bergami was employed to assist the Queen in dressing and undressing upon this occasion; nay, it was stated, that her royal highness changed all her clothes during the time that he was in the room. Now, your lordships find, that so far from that being the case, from the beginning to the end, she had a dress underneath; and sir W. Gell says, in page 562,* "I believe the Queen had a very great number of attendants when she changed her dress; the door was opened and shut perpetually, and every body was in and out of her room." And yet Demont has the courage to tell your lordships that for three quarters of an hour upon such an occasion as this, when she herself was the hostess, she was locked up in the chamber with her paramour. My lords, I think no man who hears me can entertain the smallest doubt, that not one shadow of truth remains in this charge.

My lords; what ought I to say of another—opened with the same boldness, met with the same disproof—I mean the charge, that the Queen, in the most indecent dress, went to the masquerade at the theatre San Carlos? Mr. Attorney General, in pursuance of his instructions, was pleased to state, that the dress was most indecent, and that the indignation of the assembly compelled the Queen to a speedy retreat. My lords, would not such a transaction have been known—would it not have been capable of proof before your lordships? But how turns it out? It turns out, even upon the testimony of Demont, that "the Queen had an ugly red dress on, and that she was surrounded by masks." And here again, Dr. Holland tells your lordships, that he was there, "but he was not aware of the Queen being there till the next morning." Then, my lords, I say, I am justified in taking this view of the subject—I am justified in saying, that not one shadow of charge remains against the Queen during her residence at Naples—that she leaves that city pure, unspotted, and untainted.

Then I pursue her majesty through the charges that follow, with the advantage of feeling confident, that your lordships will do me the justice not to couple with future charges refuted accusations, but to consider each and every one that follows, until I have disproved what is to come; for they have been all free from all impression save that of the truth. But, my lords, am I to stop here in my conclusion? I think I am entitled to say to your lordships, that here is the ground-work of the proof—here is the foundation of that edifice of imputed guilt, which has since been raised. When I look at the evidence of Demont and Majoochi—when I examine it in all its parts, and see the consummate art and artifice with which it has been connected and arranged—when I see the manner in which it has been made, in the original deposition at least, not capable of being confronted by the testimony of others, and only by cross-examination by possibility brought into that shape, why, my lords, I am inclined to say this—that here was the foundation of the conspiracy; that here the talents of mademoiselle Demont had been successfully exerted, in order to pave the way to the introduction of other charges and other circumstances, which, without the colouring to be drawn from the Naples case, falls to the ground in native nothingness. I say, that my learned friends have done rightly in having laboured the Naples case; they tried it in every shape and in every way—they spared it not? Why, my lords, did they spare it not? "Let me but poison the source," says my learned friend, "and the taint will follow down the stream. Let me but create an impression that there was an undue attachment at Naples, and I will convert, all the circumstances hereafter, however innocent, however natural, however praiseworthy—I will colour them with the same complexion, I will bestow upon them the same taint of guilt." My lords, I humbly implore your lordships, for the sake of truth and justice, to cast away from your minds, to eradicate from your hearts, every trace of that evidence which I confidently assert I have disproved in the face of this august assembly, and to go with me, as you are bound to go with me, with pure and unbiassed minds to the consideration and effect of the future circumstances which it is my duty to discuss—to discuss them with relation to every thing belonging to them; but not to import into the consideration of the case, impressions, arguments, or reasons, which have no connexion in nature, in fact, or in justice.

* See p. 363 of the present Volume.

The Earl of *Liverpool*.—Would Dr. Lushington wish for an opportunity of refreshment.

Dr. *Lushington*.—A little time, if your lordships please.

[After a short time, Dr. Lushington proceeded as follows:]

My lords; I left my argument at that part of the case which closed with the history of Naples; and I have the pleasure of informing your lordships, that I think there are several branches of this case, which, in the strict discharge of my duty, I am fully justified in passing over without a single observation. I think so, my lords, first, because nothing that I can say would add to the admirable arguments of my learned leader; and, secondly, because I have the sincerest conviction that those points are established beyond the possibility of human doubt. My lords, the circumstances to which I refer, are the circumstances at Scharnitz, at Sinigaglia, and at Trieste—either the subject is entirely exhausted, or, I think, I may venture to say upon all three that, the truth has been satisfactorily elucidated.

My lords; leaving Naples in the month of March 1815, your lordships will find an extraordinary deficiency of proof up to a period of not less than six or seven months; because, my lords, I pass over, as unworthy of notice, the breakfasting at Genoa as established by the evidence of Majoochi, and other petty circumstances which stand upon the same redoubtable testimony. And now, my lords, I come to the long voyage. And here it is right, in the first instance, that I should point out to your lordships one or two contradictions of the testimony already adduced, which, if they produce the effect upon your lordships minds, which I apprehend they must produce, naturally discredit the witnesses to whatever other facts they may hereafter speak. My lords, here an observation occurs to me which I should have held myself guilty to a court of justice—were I to presume to offer it to a court of justice—(where every individual was in the habit of weighing and considering testimony, and accurately knowing all the principles by which our judicial proceedings are governed)—if I should presume to offer the observation I now make—I should be laying down ordinary and common truths to persons infinitely more conversant with them than myself. I allude to this—if you once find in the testimony of a witness, that he has wilfully swerved from the truth, that he has in any one particular wickedly, and, in the language of our law, "of malice aforethought" deposed against his knowledge of the truth—if once you find that, your lordships are bound in justice, according to all the principles of common sense, according to every principle that ought to govern the human mind, to reject the whole of his testimony, from the beginning to the end. And why, my lords? Will any man for a moment maintain the position, that if Majoochi has wilfully perjured himself in one place—that if he has manifested that disregard to truth and to his oath in one instance, there is ground for believing that he has discovered upon a subsequent occasion, or was influenced upon the preceding occasion, by that reverence for the God whom he calls to witness, and that respect for his own character which are the only safe-guards for the veracity of witnesses. Why, in the name of common sense, is it, my lords, that a conviction for perjury disqualifies a witness, because he has once sworn falsely? And where is the distinction between a conviction of perjury proved by a copy of the record brought into court, and the conviction of perjury proved before your lordships upon the present occasion, past all human possibility of doubt? My lords, Majoochi would, according to our law, be rendered utterly incompetent—his evidence would not be even receivable, if he had once been convicted of the crime of false swearing—it would not be competent evidence. Why, my lords, if instead of the record of a court of justice, I produce to you proof of which no man can doubt, I ask your lordships whether in common equity, whether in common sense, the conclusion does not follow, that, as in the one instance upon the production of the record, you would reject his testimony altogether, so in the other instance, on the conviction in your own minds from irrefragable proof, you would erase from your consideration every trace, every impression, which that evidence may accidentally have made before the perjury was brought to light and to conviction? It is upon the same principle I implore your lordships to consider the testimony of Majoochi, of Demont, of Sacchi and of Restelli. My lords, it never was given to man to detect perjury in all its ramifications, and again I say, for the

last time, once detected it must and ought to avail if there be justice in England.

Now, my lords, one or two instances I will point out to your lordships, and pass off from them with rapidity. My lords, the Queen has embarked on board the polacre, and she visits the Seven Sleepers at Ephesus—Majoochi says, that "Pergami and the queen dined alone in a vestibule, surrounded by a wall." There, my lords, in silence and security the eloquence of my learned friend has displayed them enjoying their guilty intercourse in all the luxuries of an eastern climate. Now, hear the truth. Lieutenant Hownam says, that upon that occasion "all her suite slept around her—they all dined together in the portico of an old mosque." And, my lords, instead of this indulgence of a criminal passion—instead of this guilty pleasure—he points it out as one of the instances of the difficulties this illustrious lady had to cope with, and the hardships she had to endure when he said, "she slept under a shed of boughs amongst Jews, Turks, mules, and horses." Ay, my lords, and worse still! Around her were those who, so long as justice shall prevail, will rank below the blaspheming Jew, or the corrupting Mahometan, those who come,—having subsisted upon her bounty, been supported by her hand, favoured by her kindness—to perjure and forswear themselves for her destruction. She had about her Demont and Majoochi—what worse in the created world could woman have!

Now, my lords, I come to Tunis. There Majoochi says (and this is a little specimen of his talent for misrepresentation) "the princess and Pergami's rooms were at a little distance. The rest of the suite slept in another part." Hear Mr. Hownam's account. "Pergami's bed-room was not near her royal highness—there were three or four rooms to pass, and a flight of stairs." Now, my lords, when Demont, in p. 287, gives the same history, as Majoochi, when I find, in an instance like this, so glaring a departure from truth, so flagrant a representation of a falsehood, it not only discredits the witnesses who have sworn it in this instance, but in every other particular. It would be a waste of your lordships time—it would not be a discharge of my duty, but a neglect of the decorum due to you—if I were to trace these two witnesses through all their similar misrepresentations; but this I do say, that almost in every instance the same may be proved. If your lordships want another, I have one in my recollection. In the case of the Barona Boromeo, Majoochi swears there was a secret stair-case, which led into a small apartment. Now here, my lords, that appellation, that, epithet is misapplied—the epithet secresy naturally conveying the idea of guilt; and what was the fact? that so far from being a secret stair-case, it was the stair-case that led to the room of Mr. Hownam, a stair-case which was frequented by servants who went that way.

My lords; one word only as to the tent on land—Your lordships will find, from the evidence of Mr. Hownam, that he "never saw any bed-clothes upon the sofa, and that the Queen was not undressed—that she had been greatly fatigued, so as frequently to fall from her horse." Majoochi says, "he slept in the circle between the two tents twice; that he heard two voices speak by whispering, but could not make out whether they were men's or women's voices." Voices, my lords! Whether individuals who have once advanced so deep in the paths of perjury, sometimes, as they proceed, feel upon them the qualms of conscience, as if stopping short they would do away the effects of their former faults, it is not for me to say. It is manifest what was the truth upon that occasion—he failed those who had hoped to receive from his testimony the asseveration of the guilt of the Queen. Upon that occasion he, together with Carlini, slept in what Mr. Hownam calls the gallery between the two tents. Whether Bergami was there or not I know not—but there they were in the gallery between. And if there be any man alive who, taking all those circumstances into consideration—the extreme fatigue the Queen had suffered—the sultry climate she was enduring—actually falling from her horse—resting by day, because it was impossible to travel by day—if there be any man who supposes, that during the few short hours which were set apart for the purpose of rest and refreshment, she could have had adultery in her mind, or could have perpetrated it in fact, I pity his understanding, and it would be absolute waste of time were I to attempt to bring any such individual to a rational conclusion upon the subject.

Now, my lords, I come to a point which forms, if one may judge from the report of in-

dividuals abroad, the last stay, the last cable of a falling cause—I come to that which now, in common parlance, for the edification of the rising generation, for the improvement of public morals, is called the adultery under the tent on ship-board—and I come fearless to the task; feeling, as I do, all the confidence which the coolest consideration can give me, that I shall demonstrate to your lordships, that guilt cannot be taken to be proved here. Let not your lordships forget, that I am entitled to say, the Queen of England enters this polacre unstained, unspotted, uncontaminated, free from the breath of suspicion. Then, my lords, let us look at the circumstances. When the Queen first enters the polacre, Bergami is sleeping not in the dining cabin. The stern of the ship is divided into a cabin for herself and a cabin for the countess Oldi, with a door of communication between the two—then comes the dining-cabin; and when they first embarked at Messina, or Augusta, Bergami slept on the outside.

Now, your lordships must remember the opening of my learned friend—"Soon," says he, "this arrangement thus made was altered by her royal highness, for the purpose of facilitating their adulterous intercourse." Now, my lords, as it is my duty to proceed step by step, your lordships must excuse my showing that there was a good and sufficient reason for that change? Both captain Flinn and captain Hownam distinctly state, that this change of apartments took place in consequence of a doctor coming on board at Tunis, and accordingly Bergami was moved—that not being the only change, for there was a change or two besides. He was changed into the dining-cabin, where he had his cot erected, or whatever species of bed he might have slept upon, on the right-hand side. So, my lords, we got rid of all suspicion arising from that circumstance. Then, my lords, he proceeds during the whole of what is called the outward voyage until the vessel reaches St. Jean d'Acre, sleeping on the bed within the cabin; and upon the return from that voyage it is, that the Queen changes her place of sleeping, and has a couch erected under the awning of the ship.

Now, my lords, I propose to consider this case thus—the reason for the change—the facts—and the justification. As to the reason for the change, we have proved, beyond all possibility of doubt, that it was the annoyance which arose from there being aboard the vessel seven horses, two asses, and the stench and the heat which were occasioned by those animals. Well, my lords, but it is said, that on the passage homeward, for five or six weeks, under the same tent slept Bergami. My lords, whether he slept there once, twice, or always, I care not—extorted as the evidence has been from lieut. Hownam. I shall be astonished, however, if my learned friends in the presence of your lordships, should venture to say, that the belief of a witness, arising partly from hearsay, can be the grounds of conviction in a criminal case. I believe if that were so, it would be the first instance since English jurisprudence has taken its shape and form, that ever a conviction was so allowed or suffered by an English judge—perhaps I may say, dating my assertion from the time of James the second. But, my lords, think not that I propose to defend the Queen by pressing my learned friends on this point—by saying, "Here is a deficiency of evidence; I pin you to your point; and though all your lordships minds may be satisfied of the fact, I will extort a verdict from your lordships, a verdict of not guilty, having in your own minds a conviction of guilt. My lords, I should be justified in doing that; but, in the name of my royal mistress, I disclaim and abandon the right. I will not, my lords—I could not—so defend her. I say, in my conscience, and in my honour, I do not believe I could use such an argument in justification of her—I should think it a happiness and a blessing, even that guilty were pronounced at once, rather than for her to go forth from this bar, acquitted in name, but debased, dishonoured, and disregarded, in the feelings of all who are upright and honourable—of all whose opinions are worth having—of all whose character renders their estimation valuable. No, my lords, I say this—I say, granted that Bergami slept under the tent—I will acknowledge it, and will justify it too.

Now, let us take all the circumstances. My lords, I have shown a good, a sufficient reason for the Queen sleeping upon deck. Now, first, what was it the Queen slept in? It is a misnomer to call it a tent—it was the awning of the ship, extending nearly over the whole breadth of the ship; not formed and fashioned with care and pains to exclude all the breath of the winds of heaven—nor did

the season of the year, even if the form and fashion of the awning had allowed it, justify or render possible such an obstruction of the current of life. My lords, necessity and nature prove that to have been impossible. Then, my lords, again I have the evidence of Mr. Hownam, who states, that this tent could be easily opened by night. I should first state by-the-by I have not only the possibility of its being opened by night, but I have the fact of lieut. Flinn opening it repeatedly, and how? by putting on one side those pieces of canvas that formed it. Lieut. Hownam is asked in p. 712, "Then is the mode by which a person on the outside, who wanted to go in, would do so, simply that of drawing back a part of the tent?" to which he answers, "I should think so."*

Well, my lords, what is the other circumstance? There are two persons at the helm. For that fact I refer to the evidence of Paturzo. He says, that he was near to the helm, together with the person at the helm, and that there were never less than ten men on deck durring the night in the same place. Now, my lords, the hatchway was open—there was no companion—the hatches were not under the awning—there was not only a place open for persons to come up, but the hatches not being under the awning, there was no possibility of excluding persons from coming up.

My lords; in addition to that, here are Bergami dressed, and the Queen dressed; for such is the result of the evidence—it being stated by Gargiulo, that he always saw Bergami come out dressed—and by Hownam, that he believes the Queen never undressed at all. Gargiulo says, "Pergami was always entirely dressed;" Demont says, that "she did not assist in undressing the Queen;" and afterwards she says, "she does not remember to have seen the hatchway closed." Gargiulo says, he remembers the hatchway being closed; but how and why, I am unable to explain. The evidence of lieut. Hownam and Flinn, and even of Demont is, that this hatchway was never closed at all.

My lords; it is said there was no light in the tent. Why not? Two witnesses tell you that there used to be light under that tent, until such a period of danger from the pirates, that they advised the Queen that no light should be burnt there any longer. For that fact I refer your lordships to the evidence of lieut. Flinn, which is confirmed by lieut. Hownam.

Then, my lords, what is said as to the hearing any thing in this tent during the night? Majoochi, of ever-memorable recollection, comes forth to aid my learned friends on this their last pinch, and says, "I was placed in the dining-cabin below, and there I heard"—what?—"the creaking of a bench." My lords, the other circumstances necessarily follow—any man who once has heard the creaking of a bench, has a perfect right to go into a court of justice, and either swear or conclude that two persons were on the bench committing adultery!—that is just the inference my learned friends desire you to draw upon the present occasion. But, my lords, could Majoochi hear? Could the two steersmen hear? I have the evidence of Paturzo, that he believes Majoochi could hear below.—I have the evidence of Majoochi that he did hear below. I have two steersmen close to the tent—I have ten sailors near the tent—and captain Flinn within four feet of the tent—has any of those, my lords, presumed to say they heard any noise indicating the commission of adultery? When we are trying a case of this importance, is a man to be permitted to draw a conclusion that guilt is perpetrated in a place like this. If the facts to which he speaks are true, I say he may—I should almost say, it is impossible to be avoided. But, my lords, we fortunately have another circumstance—this chosen Elysium of the Queen, was one that she would as soon be without; for when lieut. Hownam tells her, that he attributes the slowness of the sailing of the vessel to the tent, she says, "I would as soon sleep without it." Surely, my lords, my learned friends do not mean to say that when the awning was taken away, the Queen would have remained on deck and indulged her licentious desires without that slight protection? But your lordships will find, in p. 708, that is the declaration of the Queen. *

Now, my lords, let us for one instant consider,—supposing the Queen had been bent on carrying on this adulterous intercourse, whether it was consistent with any rules of ordinary reason to presume, that the adultery was committed under the tent. My lords, mark this—she was re-

* See p. 503 of the present Volume.

* See p. 501 of the present Volume.

maining in her own cabin and Bergami sleeping in the dining-room, with every facility of carrying on that intercourse without detection on the whole of the voyage outwards. Now, my lords, if she was under the influence of this passion, which if it existed, degraded her to the rank of a common prostitute, I ask your lordships whether she would have exchanged the gratifications of a luxurious bed in the cabin, with almost safety from detection, for the chance-caught enjoyments on a couch without bed clothes—she and her paramour being both dressed? My lords, is it consistent with human reason, that having in your possession the means of the ample gratification of your passions, you should pursue another course, and, strewing difficulty in your own way, diminish the opportunity of enjoyment, and incur the danger of detection? One such blast as drove the Queen from her tent off the coast of Caramania would have ripped the awning to shivers, and might have exposed her even in the very act of indecency to the eyes of the whole crew on deck—one such mistake as lieut. Hownam made when he ran up the ladder at night, might have led to a similar disclosure.—Those are the risks which she is supposed thus voluntarily to have encountered.

But, my lords, let us see a little more how this stands. Was there no reason, no justification, for the attendance of Bergami? Know we not, my lords, that a crew of 22 Italians, up to that very hour unknown to her majesty, were not the persons precisely to be trusted. Or, if it is granted that their fidelity was above suspicion, I ask you, whether her majesty was not entitled to protection from even the accidental insult of a drunken sailor? Good God! my lords, shall we impute guilt where safety is sought? Shall we impute disgrace where protection is alone required? Nay, my lords, is that all? We have the evidence of lieut. Hownam, that a woman could not have performed the duties of this situation. He says, that "when there was the least roll of the sea, female attendance was impossible." Was the Queen to remain under the awning alone, or was she to go back to endure all the nausea of this stench, noise, and heat? No, my lords. But it has been said, it is not possible that men and women shall so associate together, and there be no guilt. My lords, if the Queen having ample conveniences and no necessity, ample opportunity for separation, and no requisition for protection, no call for the services of this individual, had taken him as a companion beneath the tent, it would have been cause of suspicion: but, even then, it would not have been cause of a judicial judgment; and the judge who could upon such facts pronounce a verdict of guilty, I say boldly would commit a judicial murder.

Now, my lords, go we farther.—We are tracing, with pain and difficulty, the occurrences of five years back, collecting all the little circumstances which we think may give a colour and complexion to the transaction—we have before us a witness who was present upon the occasion, whose veracity I think no honest man can doubt. My learned friends have, by the torture of cross-examination, obtained from him an admission of his belief that Bergami was under the tent; and, having thus obtained from him the admission, what are your lordships called upon to do? Why, my lords, to draw a conclusion of guilt from those very circumstances which never conveyed to his mind the slightest impression of criminality. Nay, my lords, I do in conscience believe I understate my case—I say from the same circumstances it is not so—no man can now say what were all the circumstances that occurred on that day—the memory of man is fleeting—there are little incidents that escape the attention of the most retentive memory, and yet which, if they were now presented to our sight, would wash away all suspicion of guilt, and leave the party who was before under a cloud of suspicion, guiltless and freed from doubt. Now, my lords, let me just state to your lordships the evidence of lieut. Hownam. He says, there was no mystery or concealment at any time on the journey. Speaking of the tent, he uses these memorable words: "I do not conceive there was any impropriety in the thing, because I must have felt it, and I did not feel it." My lords, shall I then be told that any judge on earth, having regard to his own conscience, judging of facts which have taken place five years back, which facts under the eye of the very witness (and that an incorruptible witness) created no suspicion, shall say, "You have deceived and beguiled yourself; you had before your eyes all you have told us, and all that you have forgotten to tell us and that existed, which afforded the means of forming a correct opinion: we have not:

we have most probably but a partial relation of the facts ; but we will pronounce a verdict of guilty where you have pronounced the sentence of innocence." My lords, I should be inexcusable if I trespassed on your time further upon this. I should think that even her majesty's bitterest accusers will no longer cling to the frail hope of fixing imputation and stain by this occurrence—I should think that, while admiring the dauntless courage and firmness with which her majesty encountered all difficulties, even where bodily sufferings were to be endured, they would not have the malignity to pervert those hardships and sufferings into the abomination of carnal concupiscence.

My lords ; I say not a word of the bath —for this plain reason—it is unnecessary to do more than refer to the passage, and leave it to your lordships consideration. Mr. Hownam says, that he does not think it possible the bath-tub could go into the Queen's cabin, and Flinn is of the same opinion. Majoochi has fixed himself beyond the possibility of doubt to the bath having been taken into the Queen's cabin. I point this out as one instance of his perjury—instance the one-hundredth. He says, he saw Bergami and the Queen enter the cabinet in which the bath was prepared—the bath was taken not in the dining-room, but in the room next to it. He says he received the pails at the door of the dining-room cabin, carried them through that room to the bath-room ; and he fixes the bath-room to be the cabinet, by stating that its size was six or seven feet, and that the sofa-bed was in it. Now, I take it to be utterly impossible that this witness can escape out of the statement, that the bath was in the small room and not in the cabin. He has wilfully deceived your lordships ; for, according to his own statement, he was sleeping in that dining-room. He knew each and every room, and yet, after five successive questions, he ends in fixing upon the cabinet, and not upon the cabin as the bath-room. As to the impossibility of the fact, I leave your lordships to the evidence of Hownam and Flynn ; and if it wanted further confirmation, I would borrow, for once, a leaf from Demont : " As far as I can recollect," says this tender, blushing lady, " but I cannot be positively sure, the bath was in the dining-room." So that tho' Bergami had committed a gross indecency by staying in the room while the Queen was in the bath, she cannot be positive where the act took place ; and, what is more singular, she actually cannot tell whether there were any wet cloths ! There is upon this occasion a most extraordinary inconsistency and contradiction, which show that truth is not in these witnesses.

My lords ; in order of time, I should bring your lordships to the Holy Land ; but I must for a moment go back to the polacre ; for there a circumstance occurred which ought not to be forgotten, and that is this—it is the evidence of the witness who spoke to the fact of the kissing upon the bench. He is asked, " whether any other persons were capable of seeing, this act of indecency." He answers " Why not ; because it was a time when other people were taking the fresh air in the cool of the evening ; other people might have seen if they chose to look." * So that your lordships see that it is credibly asserted and credibly proved, that in the cool of the evening, in the presence of half of the crew by necessity, and of three parts of the family from pleasure, the Queen was committing these acts of indecency which are proved by Mr. Paturzo, without one other of the crew being called to support him !

My lords ; I trust that I shall be able to pass over the remaining facts with greater rapidity. I think, my lords, you could hardly expect a counsel arguing zealously at your bar, to trouble your lordships with any detailed observations upon one of the grievous charges which is contained in this bill. My lords, I believe there is one charge unheard of in any court of justice previously to this time, and as absurd in the nature of a criminal charge as perhaps the annals of any country can exemplify. Gracious God ! to think that this bill should have the following solemn averment, that her royal highness not only took him into her household, and received into her service his near relations, but " bestowed upon him great and extraordinary marks of favour and distinction, obtained for him orders of knighthood and titles of honour, and conferred upon him a pretended order of knighthood which her royal highness had taken upon herself to institute without any just or lawful authority." My lords, to this charge of unprecedented atrocity—to this violation of prerogative, of God knows whom, and God

* See Vol. 2, p. 902.

knows where too—which, if it be nicely analyzed, is an offence against the dignity of the grand seignior—to this charge, the only one that is proved, I plead guilty. My lords, what shall I say in mitigation of punishment? how shall I extenuate the wickedness of bestowing upon Bergami, Schiavini, Austin, Hownam, Flinn, and Hieronimus a piece of lilac coloured ribbon, one half yard in length. My lords, it is true the offence has been committed; and when you consider the punishment, my lords, let it be commensurate to the length of the ribbon. But, my lords, mark one thing—here is perjury, here too—it was not, as Majoochi has sworn, a straw coloured ribbon, but lilac; and do not let this gross misrepresentation go forth. It is a serious topic, and God knows what the consequence may be to my royal client! it shall be a lilac, and not a straw coloured ribbon. Why do I detain your lordships a moment upon this? for this reason—what must be the dark malignity of their temper and disposition — what must be their rancorous feelings—what must be their atrocious inhumanity — who could dare to bring before this illustrious court and assembly, a charge so frivolous, a charge so unfounded, that in days to come it will stand for everlasting as a mockery upon justice? I pray your lordships to bear this in mind; that ye may see, and that ye may know what the perversion of a vicious disposition can do—how innocence can be perverted into guilt, and that which no honest man dare say is even tinged with immorality, be made the first and foremost charge in a bill of Pains and Penalties!

Now, my lords, one or two words more, and I hasten towards my conclusion. My lords, I wish just to point out to your lordships shortly, one or two points which my learned friends, perhaps with greater wisdom and judgment than myself, thought fit not to touch upon—I mean such contemptible evidence as that which was given by Galdini in page 385. I will, in two words, state his evidence, and point out its incredibility. This said Galdini tells you, that having twenty men waiting for work, and no materials he went to the Queen's house at the Villa d'Este, to look for Guggiari the fattore, because this man employed him—that he went into the kitchen of the fattore, and not finding him there, he went up stairs, and there he saw the Queen and Pergami in an indecent situation. Now, my lords, first of all, let us see the extreme probability of a mason going to look for his master—he walked into the palace of the Queen, nobody thwarted him in his way, there were no servants, there were no grooms of the chamber, there was nobody to interrupt him, but he walked straight into a chamber between 9 or 10 and 11 in the morning, and he found the Queen in an indecent posture. He says, "I opened the door, and looked, and saw a good many doors, and I was rather out of humour, for I had lost a great deal of money on account of so many men being upon my back that day, and without work; therefore I opened the door and shut it again." He saw Bergami sitting with his right hand round the neck of the Queen; he cannot say whether it was a sofa, or a chair, or a bed, "because," says he, "I was there only a moment." Why, my lords, when he is asked "How far did you see the breasts of the Queen uncovered? he answers—"I did not stay to look; I saw it, and made my escape. I saw it in the twinkling of an eye, it was uncovered as far as here." Very probable! Now I will tell your lordships what an Italian "twinkling of an eye" is. He says, "When I got into the room, the baron got up and took his arm from the neck of the princess, and told me. 'What do you want 'from here, you dog?' I told him you must excuse me signor baron; I came here to look after the fattore, for I have got so many men, and I want the materials to make the men work. Upon which, the baron told me, that that was not the apartment of the fattore."* So, my lords, I find that according to an Italian explanation a "twinkling of an eye" means an address in these terms: "What do you want here, you dog," an answer at considerable length, and a reply to that answer. And this is the twinkling of an eye in which you have no possibility of seeing whether the Queen's breasts be uncovered or not! Oh! my lords, this is a choice specimen of my learned friend's collection! this is one of those which ought to be exhibited as they do extraordinary productions in agriculture at the Woburn sheep-shearing. I would show the man to your lordships, as exhibitions are made at Mr. Pidcock's, as an extraordinary instance of ingenuity.

My lords; there is another circum-

* See Vol. 2, p. 1235.

stance. You have heard of a very strange thing taking place in Italy—her majesty, never known to have bathed at Blackheath—there being not a whisper of her having swam over the thames—gets to the Lake of Como; and there she takes it into her head to take a swim in the Brescia. Bianchi says, "the Queen and Pergami were dressed"—he does not know whether they had on linen or silk. My lords, they went into this said river—how deep do you think it was? three quarters of a yard—two feet—no danger of drowning! I quote this as a specimen of her majesty's prudence. And what happened to them when they came out? "Their clothes seemed wet at the top." That is in page 399.* Now, that your lordships should be kept here forty days together—a whole quarantine—in having testimony like this produced, will remain, in after ages, as one of the most extraordinary and incomprehensible events that ever took place!

My lords; I forgot my friend Mahomet; and really I have no time to spare for him. I will just observe, that when we first heard that he was to be brought upon the table, I happened to be in town—my learned friends were on the circuit. I had inquiry made for the individual himself, for he had been at Marseilles; but I could learn nothing of him. What the nature of his dances were I leave your lordships to take from the testimony of Hownam, Vassali, and all the individuals who saw him; but I believe you will soon be able to satisfy your own minds, for I am credibly informed, that Mr. Elliston has sent for him to perform at Drury-lane Theatre. We should have been most happy, if it had been in our power, if your lordships would have indulged us with a little wider stage—that he should have exhibited here, in *propriâ personâ*; but I must say, that though these subjects may be treated lightly, and as they deserve, with scorn and ridicule, they should never be forgotten by your lordships in your serious consideration of the case. You should ever bear in mind, that misrepresentation is worse than invention. Why? Because one having fact to build upon, may be in part corroborated to ill-judging minds, by persons who speak the truth; that which is false from the beginning can never be corroborated but by conspiracy and perjury—therefore, let me rather have to do with a conspirator at once, than to deal with him who, taking truth for his outline, fills up the picture with fraud, falsehood, and misrepresentation.

Now, my lords, there is the Barona. It is worth your while to see how the malice of men can pervert in this instance, not merely an innocent act, but acts of kindness, so as to bear the face and effigy of guilt. My lords, Sacchi—of all the race that your lordships have here seen who stands foremost in the list of damned characters—see how he has represented what her majesty did at the Barona! You see the truth—consign him and his evidence, if you can, to oblivion; but let his name live in the execration of all that are good and honest. My lords, in page 433, speaking of the Barona, he says, "At the beginning there came people of distinction; but in these balls were introduced people of all ranks and both sexes, and even of very low condition; and as between some of the suite of her royal highness and these low women there was some freedom, thus those people of distinction were no longer seen—those persons took those women out from the ball-room, and made them go out at their pleasure and will."* He then relates a conversation, to prove the Queen's cognizance of the acts of these individuals. My lords, Demont herself will not bear him out there: she says, "in the presence of the Queen, I saw nothing particular." But now for the fact, my lords. Lieut. Hownam says, "the Barona was a small country-house." Your lordships will recollect the description of these entertainments—it was a small country-house, which my learned friends, in their ingenuity, magnified into a spacious and extensive estate, conferred by the Queen upon her favourite Bergami; leaving, at the same time, the extent of this estate in that delightful obscurity, which may enable them to argue without the possibility of detection; whereas, the fact was capable of proof.

Vassali states, that there were entertainments given to amuse the household, and that the whole number did not exceed fifty—it was carnival time, the servants did not come in at first—they did not come in till the Queen had withdrawn. —The prefect of Como, the curate of the Barona, and the baron Cavalletti, and his

* See Vol. 2, p. 1245.

* See Vol. 2, p. 1269.

wife, were there, and none of these persons ever saw the slightest act of impropriety. Now, my lords, I say, if the facts were true, were not those who promoted this charge, bound to have produced the prefect Tamasia, bound to have produced the baron Cavalletti, bound to produce the curate, who is vouched, or at least bound to have made their inquiries?

My lords; I told your lordships there were many points of this case that it was my intention to pass by; but there are one or two observations upon the occurrence at Carlsruhe which I dare not omit. We now stand, my lords, in this peculiar predicament—that the evidence of Kress bearing upon the person accused, she is forced by her government to attend at your lordships' bar—the evidence for the party accused remains absent in Germany, notwithstanding the exertions of his majesty's ministers. My lords, what say I? —Blame upon his majesty's ministers I cast none. Blame upon some one I do cast; and I say this—that Kress is perjured, or that the minister of the grand duke of Baden has told a falsehood:—Kress is asked, in p. 192, "Who asked you to come over here?" "At Carlsruhe, our minister M. Berstett."—"When you were at Carlsruhe, did any other person speak to you about coming over here?" "M. de Geilling."—"Who is M. de Geilling?" "He is at court, I do not know what office he holds there.*"—Then, my lords, at page 202, she is asked, "What minister are you speaking of?" "M. de Berstett; that gentleman told me that if I would not go voluntarily, I should be forced."—"Whose minister is he?" "I cannot tell this."—"Is he not the minister of the duke of Baden?"—Now, my lords, minister of the duke of Baden he is—it is sworn he told Kress, "Go you shall, in consequence of the applications which have been made for your testimony, and give it at the bar of the tribunal in England." If he did not, Kress is forsworn; if he did, never I believe in the annals of even a German court was baser tergiversation and falsehood than that which appears in his dispatch of the 13th of October: he says, "The object of the propositions made to me verbally by your excellency, appeared to me to be, that the grand duke, my august master, should give to baron d'Ende not only his permission, but his orders, to proceed to England; to which I had the honour to remark, that I knew too well the fixed determination of his royal highness, never to take part directly in any thing which might relate to the solemn proceeding at this time before the tribunal of the House of Peers in England, to dare to propose to him to give any such orders to a person belonging to his court.*" Did baron Berstett give orders to Kress or did he not? Who is to be believed? I quote the next paragraph—"If any agents of the British government have succeeded in inducing subjects of the grand duke to proceed of their own accord to England, I have to remark to your excellency, that this could never have occurred except in the case of private individuals." What, then, the government never did interfere! Then Kress has spoken untruly—"I hope your excellency will find in this exposition of facts relating to this object of your mission, the most convincing proofs of the impartiality and justice which have guided and will ever guide the conduct of my government on this subject.*" My lords, if that be true, then is Barbara Kress a perjured witness; or, if the other has been the case, if there has been an influence more powerful than that of Great Britain which has succeeded not only in detaining the baron d'Ende from this country but in urging the minister of the duke of Baden to falsify himself in the eyes of the world, then I ask your lordships, whether there be even one among you who would tell me I am to proceed in my defence as to this transaction of Carlsruhe, where British influence has failed, where other influence has compelled the accusing witness to come, and has held back the testimony for the accused? I will not stain your lordships' justice with the reflection by dwelling for one moment more on this. I am persuaded there is not any honest peer in this illustrious assembly, who would fix on his own conscience the everlasting wound of considering for an instant the evidence of Kress and the case at Carlsruhe. If, indeed, he ever bears it in remembrance, it will be to think with contempt and abhorrence of those Wirtemberg and Hanoverian ambassadors, who have taken upon themselves the honourable office of inspectors of dirty sheets and searchers into foul-clothes-bags—he will think, I say, with contempt on those individuals,

* See Vol. 2, p. 976.

* See p. 963 of the present Volume.

and I trust, for the honour of England, I may say, he will believe them to have been actuated in their proceedings by the native propensity of their souls to grovel in filth and obscenity, and that they were not set upon such a disgraceful task by any individual who boasts the name of Englishman, much less by him who wears the Crown.

My lords; I shall trouble your lordships with no more instances, and not one single observation upon any other of the particular accusations in this case; but there is one point which I find myself bound to bring under your consideration. My lords, we have closed this case without producing before your lordships the countess Oldi, Brunette the half-sister of Demont, Schiavini, William Austin or others, who are now in attendance upon the Queen. With an astonishment that I shall never forget, did I hear my learned friends calling upon us to produce other witnesses, when they have established no guilt—to say, "You shall establish your innocence;" as if this were an inquiry into the conduct of the Queen, and not an hostile accusation, to be met, fairly met, with every lawful opposition upon our part—as if my learned friends would be justified in calling upon us to put to the bar of this House one single witness, when they have established no case. My lords, let us see how these witnesses stand: at one period of the cause, my learned friend, Mr. Brougham, after having finished perhaps one of the most able and eloquent arguments ever yet addressed to this House against calling Brunette, said, "notwithstanding all this, I will call her." My lords, my learned friend was right at that period of the cause—he was right, because our witnesses had not then arrived. My learned friend did not know that we should then be able to take the case, particle by particle, and show to demonstration its fraud and falsehood. Therefore, said he, we must meet this case thus—we must meet it by general evidence of the Queen's conduct, and by exposing to my learned friend's cross-examination all that Brunette may be able to say. But, my lords, now the scene is changed; and, in point of common sense, I ask your lordships, how the witnesses would stand? They are the witnesses, I admit, most known to the Queen—who have had the best opportunities of judging of her conduct—who are under the greatest obligations to her. If, my lords, no one syllable could be distorted against us, think what a cry would be raised—if all their evidence was praise and expurgation, —"O, they are not credible; they are under obligations to the Queen; they are the relations of Bergami, and truth cannot be expected from their lips." Would any counsel who did not deserve to have his gown stripped from his shoulders produce witnesses under circumstances of this description? Aye, but, my lords, is that all? If they were essential witnesses —if they were persons of credibility—why, I ask, were they not produced on the other side? Why should my learned friend, the solicitor-general, say, we have laid before you all testimony deserving of credit, not as parties, but as fair investigators? What! my lords, is the accuser to claim the exclusive privilege of cross-examination? Is he to reject those witnesses as non-essential, as not deserving of credit, and to say, "upon our case they are useless, but to you they are essential witnesses, and call them you shall." Surely, my lords, no man possessing judgment, would have so acted—necessity alone, the want of other proof alone, could have justified it. Does that necessity exist upon the present occasion? Let my learned friends point out one single charge which is supported by credible testimony which we have not met, one single accusation which we have not rebutted. Before I bring Brunette to this bar, I must have something farther to do. My lords, I will not bring her here to disprove charges resting upon the testimony that no man can venture to give credit to; to expose her to the merciless fangs of such a cross-examination as lady Charlotte Lindsay and other witnesses have been exposed to. Oh! my lords, it is not that I feel the terror of a cross-examination for any one of those persons who surround her majesty. Where that cross-examination is confined to the conduct of the Queen herself, there I fear not, even though the lapse of time might have left opportunity for misrepresentation. But, my lords, when I saw this —when my memory furnishes me with the instance of my lord Guildford being cross-examined to some declarations made at a private dining-table, as to a Greek servant having been with the Queen, not one word of charge having escaped my learned friend as to that matter until it came out on cross-examination;—when I find another question put as to the ceiling of the room at the Villa d'Este—ano-

ther charge which never has appeared from my learned friends even at this moment,—should I expose a witness to that, where I had no knowledge of the fact, and in re-examination cannot set it right? My lords, the Queen should be tried by her own acts, by what she herself has said and done. Every witness produced for the prosecution must in his evidence in chief, speak to those words and acts of the Queen; but if we produce him—if in the course of the whole six years, he happens, either from lapse of memory, from a quarrel with Bergami, from any one of the numberless incidents which may have occurred in that time—to have done what? Why, to have uttered an expression which, by possibility, could now be tortured into offence, into a disrespectful opinion of the Queen, what should we do? The Queen would suffer, not for what she did, or what she said, but for what one of her witnesses might, by accident, in a hurry or in a passion, have said or have done. She would be tried by the acts and words of others, and not by her own.

There lies back one other observation. Your lordships remember how Mr. Hownam was asked as to his declarations. Your lordships remember how other witnesses have been thus interrogated. My lords, there is one other circumstance; the purpose of inquiring to the declaration of witnesses is to attack their credit by proving contradictions. Now, my lords, would any man who presumes to advocate, be justified in putting witnesses to be examined to their declarations, when the whole depôt at Cotton Garden may be expected to come and contradict those declarations? My lords, thinking as I do of this case—believing it to be a false, foul, and rank conspiracy—I have no hesitation in saying that, judging not by argument, but judging by the past, by the records upon your lordships table, not by what witnesses may do, but by what they have done, it would be easy for the agents of my learned friends to enter that scene of pollution, and bring witness upon witness to contradict any declaration which the best and most honest witness might have made. Here therefore say I, my lords, necessity has not called upon me to discharge that duty; and I hope that it is the first duty of a counsel not to expose his client to the risk of injury where no man who has honesty in his heart dare say there is an accusation proved.

My lords; I think I am justified in saying, that there is not a point in this case which requires further elucidation. If I were to look at and examine the difference between the witnesses we have produced and the witnesses produced on the other side, fearlessly could I hold up to your lordships the contrast which exists between them. I would say, "Look at their character—look at their conduct—look at the obligation to speak the truth on the one side, and look at the absence of all those qualities on the other." But, my lords, one word more. Witnesses you have had in abundance—Your lordships have seen a commission instituted for the express purpose of doing what? enquiring into the guilt or innocence of the princess of Wales. My lords, I know not the tenor of the instructions they acted under; but "by their fruits shall you know them." I know that the moment they were established at Milan, they began taking the testimony of her discarded servants; and they never once availed themselves of the opportunity of examining whether that testimony could be corroborated or confirmed by persons of greater respectability in life. My lords, what is the state of the case? I ask your lordships if ever such an instance was seen before, that the witnesses against the accused are discharged by the accused. They are taken into the employment of the prosecutor himself. My lords, consider here the opening of bribery—a temptation to the violation of an oath. Look, my lords, I beseech you, what is the state of the case. Restelli is taken by Reganti; Sacchi comes next; and they themselves are sent to seek confirmation of those very inventions of which they were the first promoters. Gracious God! my lords, where can any trust or confidence be reposed where persons have so acted? Did ever any one yet hear of two witnesses like Sacchi and Demont having been kept at the sole expense of the prosecutors for the fifteen months preceding the day of trial; and of two others, Restelli and Majoochi, in the employment of the government? My lords, I say that these facts are more than amply sufficient to demonstrate, that that commission sought not investigation—sought not an opportunity to acquit my royal mistress from the foul slanders which were propagated against her, but they sought to raise up an accusation against her, and to bring it before the world to sully and degrade her character.

My lords, there is not one of the witnesses here produced who possessed any one of those qualifications which best insured the observance of truth; character they have not to lose; here at least punishment they have none to dread; impunity they may avail themselves of at any moment they please; and they have before them an example, by former conspirators against the Queen who have never yet been punished—they have every encouragement to do the deeds which they were paid for doing; they have every hope of reward if they succeed; no fear of punishment if they are detected.

My lords; I say not one word more as to the proof of this conspiracy. I think my learned friend Mr. Denman has left it so, that no observation from me can be requisite or necessary, save this, that the persons accused, are colonel Browne, Vimercati, Riganti, and Restelli. I heard time asked for for colonel Browne —I heard not one word said of Vimercati, who could have disproved this charge. The one, Restelli, is gone to Italy, and his departure has been justified upon false pretences—the other, Riganti, the very individual who first procured Restelli, him my learned friends have not dared to call. Now, had they done this—had they boldly put Riganti to the bar and brought him to contradict the testimony of Omati and Pomi, then might they have said, with something like a seeming consciousness of truth, "We have done all which the time allowed us in the name of justice—presume not against those who cannot defend themselves." But when they have neglected to avail themselves of the means in their power—when they have not desired to bring one of the fathers of this conspiracy to this bar to answer for himself—away with the flimsey pretence —away with the false unfounded argument, that any of those who are accused could, if time had been allowed, have relieved themselves from the accusation! Where the time was no impediment, no attempt at justification has been made. Therefore say I, that the demand for time can weigh not with your lordships as any presumption of the innocence of the parties; and, if I wanted any one argument to add to that, it is this—that never once in the course of the whole cross-examination did my learned friends presume to hint, that, as far as Vimercati was concerned, the whole of this diabolical plot, the whole of this accusation which we make, that this has been carried into effect by means which honest men should shrink from, was not true. Such, my lords, have been the means used against the Queen. I say nothing as to the neglect of means which those who are her accusers ought to have employed to have discovered the truth. All I say is this, that having all the power that the first Lord of the Treasury could give—having foreign ministers at their command—having established a commission at Milan—and having sent their German agents throughout the continent of Europe, never once have those unlimited powers of inquisition been exercised to attain the ends of justice—Sir W. Gell remains in Italy unquestioned—Mr. Craven unquestioned —Dr. Holland unexamined—Lady Charlotte Lindsay unsought for—Sicard is at home. I do not say what might have been the course, if those individuals had refused information, but I do say that it ought to have been sought, and that when all those powers were united in the hands of the accuser, it was the most extraordinary, the most solitary instance of their exertion of it, to find that lieutenant Hownam was sent for by the first lord of the Admiralty to be asked where James the seaman was last heard of. The industry which has been employed in support of this prosecution, had it been employed in a *bonâ fide* investigation of the truth, would have saved your lordships from the painful necessity of all these proceedings—would have saved the country from the incalculable mischief of this discussion—would have preserved us from all those evils every one laments; and no one can estimate, my lords, as to the length of this case. I have to thank your lordships for the indulgence with which you have heard me, after your attention must have been so much exhausted by so many days applied to this subject—I thank your lordships for your patient indulgence, and, in perfect confidence, I leave the honour of my client, not to your mercy, but to your justice.

Mr. *Brougham.*—My lords, I here close the Defence of her Majesty.

The Counsel were directed to withdraw; and the House adjourned.

HOUSE OF LORDS.

Friday, October 27.

The order of the day being read for the

further consideration and second reading of the Bill, intituled, "An Act to deprive "Her Majesty Caroline Amelia Elizabeth," &c. and for hearing Counsel for and against the same; the Counsel were accordingly called in, and

Mr. Attorney General was heard in Reply, as follows:—

The Defence of her Majesty being now closed, it becomes my duty once more to address your lordships upon the case as it now stands before you in evidence. My lords, the importance of the case, the anxious interest which is taken in its result, would, I am sure, be alone sufficient to entitle me to your indulgent attention; and, my lords, no advocate ever stood more in need of it than I do upon the present occasion; not, my lords, because I am oppressed with the difficulty of the case—I feel it not; but because I feel that your lordships attention has now been occupied for a long time upon this case—that my learned friends have been for the last three days addressing your lordships upon it—and that therefore your attention must be, to a certain extent, exhausted—the subject itself is become trite and stale; and therefore, my lords, I cannot but feel, independently of the consciousness of my own inability to do justice to the task which is imposed upon me, that I am asking at your lordships hands that which perhaps it is difficult, under the circumstances, to grant; and I cannot but feel that, under the mass of evidence which lies upon your lordships table, and the length of observations which have been made upon that evidence by my learned friends who advocate the case of her Majesty, I may be under the necessity of making a larger demand upon your lordships time than your lordships would in any other case than one of such importance be inclined to grant.

Before, however, I approach the facts of the case, allow me for a moment to advert to a topic which has been urged by every one of my learned friends, and to which such frequent recurrence has been made in the course of these proceedings; namely, the peculiar disadvantages under which her majesty has been placed in meeting the charges which are preferred against her. My lords, however that topic might have afforded scope for declamation when a list of witnesses and a specification of the charges were demanded, I cannot but think that it is wholly unsupported when your lordships come to consider the manner in which her majesty's defence has been permitted to be conducted. My lords, all the witnesses in support of these charges had been examined; the whole of the charges became known to her Majesty and her advisers; and your lordships, at that period of the case, did that which I have no doubt your lordships thought, under the peculiar circumstances of this extraordinary case, was due to her majesty; but which I trust will not stand as a precedent for such indulgence in future cases—your lordships permitted the case to stand still at the close of the evidence in support of the charges—your lordships allowed to her majesty whatever time she required to answer that evidence—unlimited funds were placed at her majesty's disposal to procure witnesses to answer that charge—and every facility which the government of this country could afford was rendered her upon that occasion. My lords, I say I trust that this case will not stand as a precedent in future, for such a mode of proceeding; because I can conceive nothing more dangerous—nothing more hazardous—than that, after a case has been proved, at least attempted to be proved in evidence, time should be afforded to answer that case---and, my lords, that time should be afforded to answer that case under these circumstances, when, according to my learned friends statement on the other side, witnesses were easily to be procured from that country in which the scene of these transactions is laid---corrupt witnesses---and therefore, my lords, that facility afforded the means---if the means could have been procured---of attempting by testimony which I will not call perjured testimony, because I am not entitled to do so in the present stage of the proceedings---but I say which did afford an opportunity, if perjury could be obtained by money and corruption, to obtain it upon this occasion, in answer to the case which had been proved in support of the bill.

My lords; I am sure her majesty has no reason to complain of a disadvantage in other respects. She has had to support her case unbounded zeal, the most sedulous industry, and---I think the epithet I may apply—the most extraordinary talents called to her aid, upon the present occasion. She has therefore presented her case to you, not under circumstances of disadvantage, but under circumstances of advantage which I believe never yet

before were afforded to an accused. If, therefore, she has failed in her defence—if the case made out in support of the bill remains uncontradicted---if, on the contrary, it remains supported by the testimony which has been adduced---I say, her majesty can never complain that she has not presented her case fully, fairly, and satisfactorily before your lordships; and that she has not had that peculiar advantage, which I believe no accused ever before enjoyed, of having such extraordinary talents called to her aid as have been exerted upon the present occasion.

My lords; under these circumstances, what is the duty which I have now to perform? My lords, I have not the power---and if I had the power, it would be my duty not to exercise it upon the present occasion---to appeal to your passions, or to excite your feelings against this illustrious lady. My lords, that field was open for my learned friends on the other side: they have availed themselves of it, to the greatest extent---all that brilliant declamation---all that apt quotation and illustration borrowed from ancient and modern authors---could afford to them. My lords, this field has been open---of it they have availed themselves to the fullest extent. But upon me is imposed the severer task---but undoubtedly a task more congenial to my feelings, and I trust to the feelings of your lordships---to examine with care and attention the evidence and the facts of the case---upon which evidence, and upon which facts, I know that your lordships will decide, without regard to any of these topics which have been so unsparingly introduced in the course of the present discussion.

My lords; what is the case then, which I am to present to your lordships? The charges contained in the preamble to this bill have been so often repeated to you, that it would be a waste of time to refer to them; but, my lords, before I advance to the discussion of the facts of the case, let me in the outset avail myself---and when I say, avail myself, I do not mean by that to catch at an expression or a phrase which has been used by my learned friends---but to avail myself of that which they find themselves compelled to admit, that the case on the part of the Bill, if your lordships believe the witnesses, proved fully, clearly, and satisfactorily, all the charges contained in the preamble to that bill. Nay, more, my lords, I avail myself of another admission which my learned friends have made to me upon the present occasion, not only in their speeches, but by their acts, that that case at the close of the evidence on the part of the bill, was substantiated; that it was a case which required the fullest answer on the part of her majesty; and three weeks have been employed in evidence, and six days, I believe, in addresses to your lordships, to prove that triumphant case which my learned friends conceive they have of her majesty's innocence and purity upon the present occasion. Then, my lords, when I advance to this discussion, I say never let it be forgotten by your lordships, that that admission has been extorted from my learned friends, and that therefore, when you come to apply the evidence which has been offered by them, you are to consider how far that evidence has contradicted or weakened the case which has been produced in support of the Bill; nay more, my lords, how far that evidence has not strengthened, supported, and confirmed it.

My lords; in examining this case, my learned friends have had recourse to a most artful—when I say an artful—a most judicious mode on their part of considering the evidence. They take care to call out insulated facts; and keeping from your lordships view those general leading features of the case, which never can be shut out in the consideration of this case, they then argue upon each case, as if it stood upon the mere circumstances attached to that case, without bringing to your view the general and leading circumstances of the case, which cannot be contradicted, which have not been contradicted, which must be admitted, and which, I say, your lordships never must exclude from your consideration in examining the evidence in the particular details through which it runs. My lords, therefore I say, before I advance to the consideration of the particular facts, let me recall to your consideration those leading circumstances which are admitted, which are uncontradicted, in the case. The first is, that Bergami was taken into her majesty's service as a menial servant, at Milan, in October 1814—that within a few short months that man, without any reasonable cause, without any pretence whatever, except, my lords, as proceeding from that licentious intercourse which I trust I shall be able to satisfy your lordships has existed between her majesty and this man—I say, my lords, that within a few

short months that man, without any reasonable cause, is advanced in her service—that before that advancement, at the time when he still held the menial situation which he filled at Naples, his child, and many members of his family, are introduced into the service or into the house of her royal highness, without any ostensible cause for that introduction. You find further, that within a short period, and while he remains a courier, he is admitted to dine at her majesty's table—that shortly afterwards, he is placed in circumstances which might have, under other circumstances, entitled him to a seat at that table; and that soon afterwards he is loaded with honors and titles, procured undoubtedly through the medium of her majesty; because it would be trifling to suppose they were procured through his own means—and, under those circumstances, your lordships find this person in habits of the most confidential intercourse with her majesty, continuing with her in that character up to the period of her arrival on the opposite shore, and then, my lords, not dismissed, but retiring from her majesty upon that occasion to a seat which had been procured for him at Milan, without being dismissed from her service, but without her majesty venturing to produce him upon the shores of this country. My lords, these, I say, are facts admitted and uncontradicted; and which therefore you never must shut out from your recollection in considering the particular circumstances of this case, as they are detailed in evidence before you; for when it is said, you are to examine this or that particular case, the case at Naples, for instance, or the case on board the polacre, you are to consider them distinctly by themselves, and as insulated and cut off from the other circumstances of the case—I say, my lords, undoubtedly, it suits my learned friends purpose so to consider it; but your lordships, who are to sit in judgment upon this case, are to consider those facts and those circumstances, with reference to those to which I have shortly alluded, and which I wish to bring before your lordships consideration in the outset of the discussion of this case. It will be my duty hereafter, more particularly to direct your lordships attention to the advancement of this person, Bergami, and the futile reasons attempted to be given for that advancement: but before I approach the facts of the case, those facts from which an adulterous intercourse is to be not only inferred and presumed, but I say, is proved upon this occasion, I say, in considering these facts, your lordships must never shut out from your recollection the relation which subsisted between these parties, the manner in which he had been advanced in her majesty's service, the manner in which his family and friends were brought about her, and the manner in which the honors, the titles, and the estates have been conferred upon him.

My lords; having made these introductory observations, let me at once approach the examination of the evidence in detail, and in the order of time in which the facts have been adduced before your lordships. My lords, Bergami having been hired as a courier at Milan under circumstances which, when I come to consider the evidence, I shall beg leave to examine, proceeds in that character to Naples, where her majesty arrived in the month of November 1814; and, my lords, at Naples begins the evidence by which the preamble of the bill is attempted to be supported. And, my lords, in considering this case, observe what course my learned friends have pursued. Not considering the case as it stands upon the evidence, but attempting to contrast that evidence with the Opening which I had the honor of making at your lordships bar, and then endeavouring to infer that because, in some particulars, the evidence has not fully substantiated that opening, the case is not proved. They say, unless the case is proved as it was opened, your lordships cannot decide upon it: Whereas, your lordships duty upon this occasion is, to discard that opening from your recollection. That opening was made with a reference to those facts which it was expected would be proved; but your lordships decision is to be formed upon the facts, and upon the evidence before you, without any reference to statements or to observations which are not founded upon those facts and that evidence. Why, my lords, my learned friends have had too much experience in courts of justice not to know that in the opening of ordinary cases—not a case like this spread over a long portion of time, and comprehending within it such a variety of circumstances—no counsel was ever expected to be tied down minutely to the opening he had made; or that the jury were to consider the case in

reference to that opening the judge when he comes to sum up the case—your lordships when you come to consider it—are to consider it without reference to that opening, but solely upon the facts as they are proved. And, my lords, if that was to be the criterion by which your lordships were to judge of the case, I shall by-and-by show you how my learned friends have failed in proving that case which they opened as a case to be proved, in contradiction to that proved in support of the bill. My lords, if that argument were to prevail, I will show you, not only that my learned friends have failed in proving the circumstances of their case as they have opened it, but that they have not ventured to prove many of the facts they opened to your lordships. The complaint against me is, not that I have not proved the substance of the charge, but that, in some minute circumstances, the evidence, though it proves it in substance, does not prove it minutely as opened—the charge against them is: that they have not erred merely to that extent, but that they have promised to your lordships evidence which afterwards they either dared not, or could not produce.

My lords; the case at Naples, with which the evidence opens, has been examined solely with that view—it has been examined with reference to the statement which I made; and then my learned friends think they have succeeded if they can satisfy your lordships that that statement has not been proved to the full extent, although it may have been proved in substance, as I think I can satisfy your lordships it has even out of the mouths of their own witnesses. My lords, what is the case at Naples? That her majesty immediately upon her arrival altered that arrangement which had previously existed, of William Austin sleeping in her room—that upon the second night, Bergami, who had previously occupied a room with the other servants of her suite, was removed from that room to another, between which and her royal highness's bedroom, there was a private communication—that upon that night of the Opera, her majesty after her return, having excluded William Austin from her room, and having dismissed her servant, there is evidence given of facts which, my lords, lead directly to the conclusion of an adulterous intercourse having taken place between herself and Bergami on that night. My lords, how is this case met? It is said, contradictions shall be offered to every part of your statement. In the first place it is stated, "we shall contradict you with respect to the circumstance of William Austin." Now, my lords, let me call your lordships attention to the evidence as it stands with respect to that fact. Demont's evidence is, that previously to that night Austin had generally slept in her majesty's room. Mr. Craven is called, in order to satisfy you, that that removal of Austin had taken place long before the arrival at Naples, and that he himself, Mr. Craven, one of her majesty's equerries, but who, I think, might have added to his title, that of her majesty's monitor—that he in Germany thought he perceived that there was an indelicacy in that boy, then of the age of 12 or 13, continuing to sleep in her majesty's room; and, my lords, he gave her a prospective caution, that William Austin should not sleep in her room when they arrived in Italy. Did her majesty obey that caution? Was the apartment altered after that communication? No, my lords, no such thing. Upon one occasion, he thinks that Austin slept from her room in Germany; and then Carrington is called (upon whose testimony I shall by-and-by have many remarks to make) to satisfy your lordships, that that arrangement was altered; although he cannot venture to swear, that Austin slept more than once or twice out of her majesty's room. Then, my lords, they call Sicard, the person who had the arrangement of the bed-rooms. So little was any alteration in the arrangement known to him, that up to the period of their arrival at Naples, he never made any; and so little sensible was he, that her majesty intended it, that upon the arrival at Naples, he made no allotment of a room to William Austin, expecting that he would continue to sleep in her room; and therefore, acting upon that belief and that arrangement, he made no disposition of a room for that young lad at that period. But upon her arrival at Naples, Sicard tells you, that after their arrival at Naples, her majesty then, for the first time, stated to him, that she thought William Austin was grown too old to sleep any longer in her room: "the days I cannot recollect, but her royal highness spoke to me, that he was too old now—and he should have a room to himself." My lords, Demont swears, that the night preceding her arrival at Naples, a similar declaration had

been made by her majesty to her; but I say, Sicard confirms Demont, Sicard contradicts Mr. Craven and William Carrington; because, if that arrangement had been altered—if it had been the intention of her majesty to alter it previously to her arrival at Naples, Sicard was the person to whom it should have been known, and Sicard was the person to act upon it. So far, therefore, from this part of the case being shaken by the evidence on the part of the defence, I say it has been strongly corroborated and confirmed by the testimony of Sicard, according with that given by Demont. Then, my lords, I say, that fact is established, even out of the testimony produced by her majesty.

What is the next fact? That Bergami, the first night of his arrival at Naples, had slept in that part of the house allotted to the servants, and that upon the second night he was removed to that room to which I have already alluded. My lords, it is said, that that arrangement was made without the knowledge of her majesty, and solely upon the suggestion of Sicard himself. Let me for a moment, my lords, call your attention to the manner in which that is stated by Sicard at page 594.* He says, that he had not any communication with her royal highness upon the subject, but he had a communication with Hieronimus upon that subject; and Hieronimus, who could have explained that circumstance, is not called by my learned friends, although still in the service of her royal highness, and the not calling him, creates a strong suspicion in my mind, that the account given by me in my statement is true; namely, that that arrangement was made with the knowledge, and at the suggestion probably of her royal highness herself. The question is proposed to Sicard—"Do you recollect any reasons you had"—now observe his reason and observe his conduct, if that was the sole reason for removing Bergami,—"The principal reason I had was, that there was a glass door which went into the garden, that was not safe, and therefore I thought it right that a servant, or some one, should sleep there, a male." Why, my lords, if the reason for placing a servant in that room was, to protect her royal highness from persons who might have come in from the garden into that cabinet, how is it that the communication between her majesty's room and that cabinet had not been cut off, by locking up the door which stood between her royal highness's room, and that cabinet? But, my lords, that is not the case. The communication between her majesty's room and Bergami's remains free and uninterrupted; and although Bergami is placed there for the protection of her royal highness from the garden, there is nothing whatever interposed to protect her from the visits of Bergami or of any other servant who might have gone in through his room and the cabinet. But, my lords, an attempt was made by the witness Carrington. See how the case was attempted to be made out by him. He knew of no such reason; he knew of no such motive operating upon the minds of any persons in the family for the removal of Bergami: he never heard of any apprehensions being entertained for the safety of her royal highness, or any reason for the protection of her there. But he states, that the room Bergami had occupied, was too low for him to occupy; that he complained of that, and that was the sole cause of the removal. My lords, when attempts are made to explain that extraordinary fact, and when that witness who could have added to the explanation, and who had the communication probably with her royal highness, is not called, I think you will consider that the reasons are not satisfactory; and when your lordships consider those general circumstances which you can never shut out from your recollection, I think you can entertain little or no doubt, that the reason for placing Bergami in that room was for a more easy communication and intercourse between him and her royal highness.

But then, my lords, it is said, that another part of Demont's evidence is contradicted, with respect to the time when her royal highness returned from the Opera. My lords, there is no contradiction in that: all that Demont states upon that occasion is, that "it seemed to her, that her majesty returned early." Sir W. Gell and Mr. Craven are called, to prove that she did not return early, but remained at the theatre till the Opera was concluded, and was then conducted to her apartment by sir W. Gell. But I say there is no contradiction in this. The fact remains upon the testimony of Demont, whether she returned early or late, that she dismissed her, having gone first to the cabinet—which Dr. Lushington endeavours

* See p. 405 of the present Volume.

to explain, by another part of the evidence; not recollecting that Sicard says, that he is not certain whether there was such a water-closet; but if there was, it was not in that passage, but in the passage communicating with Dr. Holland's and Hieronimus's room, though Dr. Holland does not himself recollect it to have existed. Then, my lords, I say there is no contradiction as to the time of the return. The free communication between her majesty's and Bergami's rooms does not stand upon the testimony of Majoochi and Demont, but it is confirmed by Whitcomb and by Sicard, that there was, between her majesty's room and Bergami's, that free and uninterrupted communication, parallel with the general communication which existed with her room, and which also led to the rooms of Hieronimus and Dr. Holland.

My lords; it is said that another part of our statement was not proved by the evidence: that it was opened to you, that her majesty did not appear at so early an hour on the following morning as on other occasions, and that there was no evidence of this. My learned friend omitted to call your lordships attention to the facts sworn by Demont, at page 309,* where she states, that upon the following morning after she had dressed her royal highness, she went into the small cabinet next to Bergami's room, and remained there for an hour and a half. Sicard was called with a view to contradict her upon this, but he failed; he has no recollection upon this. He says, in page 598,† "It has happened, that her majesty was not up when persons called in the morning; he remembers it happened at Blackheath, but he cannot say whether it did at Naples or not." But my learned friends have assumed, that the evidence failed upon that part of the subject, overlooking altogether that testimony of Demont.

Another fact was to be contradicted—the state of the beds. My lords, Demont swore that the small travelling bed had upon the following morning the appearance as if it had not been occupied, and that the large bed exhibited those marks to which I need only recall your lordships attention without particularizing. What was the opening of my learned friend, Mr. Williams, upon this? that he would prove to your lordships, by a servant who had been called into her majesty's room upon that night, that the wind having blown open her majesty's window, that servant went into her majesty's room for the purpose of shutting that window, and that her majesty was seen upon that occasion by that servant in her bed.* Where is the evidence of this, my lords? Where is the servant? I suppose the terror and alarm at the cross-examination of lieutenant Flinn has operated also upon the nerves of that unfortunate servant; and for that reason he is not produced before you. But when I am charged with not having proved the statement I have made, I call upon my learned friends to account why they have not called this servant to prove the state of the beds on that night? Could any thing have been more satisfactory or more decisive upon this part of the case? Could there be a more express contradiction than by that servant if they had dared to call him? And never forget this in the course of your examination of the evidence—when you find that her majesty has the means of contradicting the facts sworn to by the witness in the support of the bill—when she dares not use those means to contradict them if they exist—the inevitable conclusion is this, that the contradiction cannot be made; but that if the person were produced to make the contradiction, he would fail from his defect of memory or of nerve. My learned friends dare not call this witness, though they have opened that they should do so, to contradict this part of the case. Then, I say, with respect to this first night at Naples, that Demont, so far from being contradicted, stands confirmed—I say she is confirmed with respect to William Austin—she is confirmed with respect to the change of the room of Bergami—she is not contradicted as to the state of the beds—a contradiction is opened, and not proved; and therefore, in substance and effect, the whole of that charge is corroborated and confirmed by the whole of the evidence now before you.

My lords; mark another thing—how minutely my learned friends labour this part of the case. They say that if they are enabled to cut down this part of the case, the whole superstructure subsequently built must fall to the ground—that this is to be considered as the key-stone

* See Vol. 2, p. 1157.

† See p. 409, of the present Volume.

* See p. 279 of the present Volume.

of the case—that if that is removed, the whole falls; and therefore they have most ingeniously endeavoured to argue this as the case on which the charges of the bill are founded.—My lords, I deny that altogether. I say that, even if your lordships shall think, after the observations I have made, that it does fail, still it does not at all touch the remainder of the case; for whether the adulterous intercourse commenced upon that night, or took place upon a subsequent occasion, matters not at all. I think your lordships will find, from the remainder of the case, that there are ample grounds to believe that that adulterous intercourse did take place at Naples, and, if not at Naples, long before the appointment of Bergami to those honours which he subsequently attained. But, my lords, I say upon the evidence, Demont is not contradicted, but is confirmed; and still more strongly by the non production of that witness whom my learned friends stated they should call before you.

My lords; what is the second case proved by Demont? Her meeting Bergami in the corridor one night, in a state of undress, approaching towards her majesty's room. And here I was astonished at the conduct of my learned friend, Mr. Denman, upon this part of the case; for he really stated, that that evidence, even if believed to the fullest extent, so far from proving any adulterous intercourse between her majesty and Bergami, was rather calculated to excite a suspicion that that intercourse had taken place between Bergami and Demont herself. My lords, what are the circumstances which Demont states? She states, that being about to retire from her majesty's room to the door in the corridor which led to her apartment, and which was towards the door of Bergami's room, she saw Bergami advancing towards her majesty's room; that she instantly made her escape up to her own apartment; and that after she had withdrawn from her apartment, she heard the lock turned of that door so as to exclude the intrusion of any person into that corridor. My lords, I say my learned friends knew not how to meet this case; they felt that unless they could contradict it, it was conclusive evidence of her majesty's guilt—they endeavoured, therefore, by observations and by comment, to do away the effect of that evidence. But I say, if that case remains as it does, uncontradicted, when it might be contradicted if the contradiction were true, it is conclusive.

My lords, with respect to the masked ball, a great deal of observation has been made, and evidence called, to do away the impression which the evidence of Demont has made as to that ball; but, my lords, have they succeeded, or have they not? I think, when your lordships come to examine critically and calmly the evidence that has been adduced upon this part of the case, that here again there is not the slightest contradiction of Demont's testimony. My lords, her statement was this,—that after her majesty had appeared in the character of a Neapolitan peasant, she withdrew from the apartment in which the entertainment was going on, and retired to a dressing-room; that Bergami entered that dressing-room with her; that they remained there for nearly three quarters of an hour; that she came out in the dress of the Genius of History, and that she went down in that character to the room from which she had previously retired. That she did appear in that character is undoubted; and that she did appear in a dress which, whatever sir William Gell may think upon the subject, I think your lordships will believe was not one of the most delicate. She appeared in a dress which sir W. Gell, from his knowledge of antiquity, compares to the dress of the Minerva at Mr. Hope's, and the Curiatius at the British Museum. It is well known to your lordships, that those figures have the arms completely bare up to the shoulders, and a thin drapery thrown over the person. So thin was it, that though sir W. Gell only saw it like a flash of lightning, and through the door at which her royal highness appeared, his optics were so good, that he could see the under dress which her majesty had on; and not only were his optics so good, but he swears that that dress remained upon her majesty, when she was in the dress of a Turkish female and a Neapolitan peasant. Sir W. Gell made his observation, not only when the flash of lightning came across his eyes through this door, but he undertakes to swear to your lordships, that that under-dress remained upon her majesty when she dressed for some other character, though he does not attempt to say, that he was with her majesty when she changed her dress, and therefore he cannot, from that circumstance, undertake to say whether she continued that dress on her person or not! But what does sir W. Gell also state—and it is most im-

portant—that considerable delay took place before her majesty appeared in that character—that great anxiety was raised to see the exhibition which her majesty proposed, the crowning a bust of Murat—that they continued anxiously expecting her arrival—that at last the door opened, and this took place almost instantaneously, her majesty appearing with those other persons to crown the bust of Murat. But you have this fact admitted, that there was great delay; and that was occasioned, as Demont says, in consequence of that change of dress and of Bergami assisting her upon that occasion. I call your lordships recollection to the evidence of Mr. Keppel Craven. He says, at p. 536,* that he hardly observed her dress, the scene was so immediately closed. The third was the Genius of History as I was told. "I saw it for a short time, and I do not recollect that it was at all indecent; and at pages 552, 560, and 561,† your lordships will see the account given by sir W. Gell of that dress. Then, my lords, how is that case affected? I say, as far as contradiction has been attempted, it has failed; and I submit to your lordships, that that confirmation not only affirms the original account given by Demont, but that it is confirmed by the facts spoken to by Mr. Keppel Craven and sir W. Gell.

My lords; the other facts which took place at Naples, are those which took place at the Theatre San Carlos; and of Bergami being seen upon the terrace of the garden, walking with her majesty arm in arm. Now, my lords, with respect to the theatre San Carlos, my learned friends say this case has failed, because the opening speech carried it further than the evidence has substantiated. But did her majesty go upon that night, or did she not, to the Theatre San Carlos, in company with Bergami and Demont? My lords, the effect of the evidence is, that her majesty went; not that I blame her for enjoying the pleasure of a masquerade, or that I am to be supposed to be ignorant that persons who go to a masquerade must go in disguise. Neither my learned friend the solicitor-general, nor myself has advanced such a preposterous statement. But our statement is this; that her majesty chose upon that occasion to go to a masquerade, not in company with the ladies of her suite, not in company with Mr. Craven, or sir William Gell, or Dr. Holland, who it appears was there.

Mr. *Denman.*—How does that appear?

Mr. Attorney General.—I will show your lordships how that fact is proved by Dr. Holland. I thank my learned friend for interrupting me, if he thinks I misstate. I should despise myself, if I could wilfully misstate—I feel it my duty only to bring the facts before you, as I conceive they are proved. I say the case is not, that her majesty went to a masquerade, or went disguised, but that she went to that masquerade, accompanied by Demont and Bergami, instead of being accompanied by the gentlemen or ladies of her suite. My lords, Demont proves that case; she states the dress her majesty wore, and the way in which she went. I am told there is nothing in her majesty's going in a rainy night across the garden, and then in a hired carriage, instead of in her own carriage, and accompanied by her own suite—but what does Dr. Holland state? He states in p. 611, "Were you ever at a masquerade at the Theatre San Carlos when her royal highness was there? I was. With whom did she go there? I was not aware till the following morning that her royal highness had been there.

Mr. *Denman.*—How does it appear that that was the same night?

Mr. Attorney General.—"Did you remain there during the whole or nearly the whole of the performance? Only about an hour, as far as I can recollect; certainly a short time."—"Are you to be understood that you do not know with whom her royal highness went to the theatre that evening?" "I do not."* My learned friend says, how does it appear that it was that time?—Has it been proved that she went upon any other occasion? Could Dr. Holland have remained in doubt if any of her suite had accompanied her?—If she had gone on any other occasion in company with sir William Gell or Mr. Craven, why were not those questions put to them? Because it is clear, that that was the time referred to by Dr. Holland's evidence; that she went with Bergami, the courier, who had been in her service, at that time, only three or four months; that Bergami was selected, not Hieronimus or Sicard. Can your lordships doubt that this selec-

* See p. 333, of the present Volume.

† See pp. 347 and 361 of the present Volume.

* See p. 414 of the present Volume.

tion of Bergami, accompanied as it was afterwards by his exaltation, attributed to some act of service and fidelity never proved, is rightly attributed to an intercourse carried on by her majesty with him, from that time till she arrived at St. Omer's? The complaint is, not that her majesty went in disguise to a masquerade, but that the persons selected to accompany her, were the *fille de chambre*, Demont, and the courier Bergami. And I say, Dr. Holland shows, that she went without the knowledge of the rest of her family, for that he was not aware of it till the following morning. My lords, it was incompetent for me to ask what was the information given him on the following morning, as to who accompanied her royal highness to that masked ball. But I say that fact has been established by Dr. Holland—no other night is spoken to, and therefore her account of that transaction is confirmed as far as it can be, and not contradicted.

My lords; she states another fact, that she on one occasion saw the princess and Bergami walking arm in arm on the terrace at Naples. How is this attempted to be met? By evidence in the most extraordinary way I ever heard. Sir W. Gell and Mr. Craven are called with a view to contradict and explain this fact. Sir W. Gell states, that upon one occasion he saw the Queen walking upon the terrace and Bergami attending her. But, the most important evidence upon this occasion is that of Mr. Keppel Craven, who says, "I saw her royal highness walking in the garden, and Pergami was near; I knew there was a spy at that time at Naples. I had had information of it from England; that being the case, I thought it necessary to caution her with regard to any outward appearances that might be misconstrued."* And because he saw her royal highness in broad day walking upon the terrace at Naples, the servant Bergami following behind her, Mr. Craven is so sensitive, he is so alive with respect to any misconstruction, which can be made of her royal highness's conduct, that he thinks it fit to assume again the character of her monitor, and he communicates with her upon that subject, and advises her to be cautious with respect to walking in the situation in which he saw her walking at that time with Bergami. At the same time he states, that he saw nothing improper in it; that it was upon a terrace visible to the neighbours from their houses—he who had seen the impropriety before of William Austin sleeping in her room, saw no impropriety, but only imprudence, in her thus walking. But, my lords, it was a fact, that she was walking with Bergami—had it been any of the other servants, I ask whether Mr. Craven would have hinted to her majesty, the impropriety of her so walking? Impropriety there was none—it was right she should have a servant to attend her; and therefore I think it is clear, that though he had seen nothing improper in her majesty's conduct, there had been some suspicion excited which led him to observe, that it was right that man should not be the person to accompany her—that it might be open to suspicion, if he was there at that time. Bergami was so distinguished from the other servants, that he had been remarked by lord Llandaff, and was noticed by lord Guildford, who dined with her at Genoa. How is it that lord Llandaff distinguished him from all the other servants? How is it that he so attracted their notice? How is it that Mr. Craven thinks that he should not be the person to attend her in the garden—if it had not been for some suspicions lurking in their minds, acquired not from their own knowledge—perhaps from the visit to the Theatre San Carlos having come to their knowledge. Mr. Craven must have acted upon some such suspicions, or he never would have dared to approach her royal highness, and have said "You had better not walk with Pergami in the garden; though I see nothing at all improper in it—though it is night, you should have a man-servant to attend you." That communication never would have been made to her majesty, but for a suspicion lurking in his mind; and being made, let me request your lordships to bear that recommendation in your minds, from one end of the case to the other; and then, her majesty having been cautioned by Mr. Craven, how can your lordships reconcile that caution so given to her majesty, with her subsequent conduct to that highly-favoured individual?

My lords; another fact is sworn to by Majocchi, as having taken place at Naples; and we have had a great deal of comment on the facts sworn to by him. My lords, the facts which he proves to your lordships are these—that Bergami

* See p. 336 of the present Volume.

having met with an accident from the kick of a horse, was confined to a room, between which, and the room of her majesty, there was that private, that uninterrupted communication—that Majoochi was appointed to attend upon Bergami, and was therefore ordered to sleep in a small cabinet adjoining Bergami's room, and which cabinet was between that and the room of her royal highness. He states, that upon two nights he observed her royal highness walking carefully through the cabinet to Bergami's room; that she entered it, and remaining there at one time about fifteen minutes, at another rather longer, returned through the cabinet back to her own room, and that this was at midnight. And, my lords, we are asked with an air of triumph whether this is possible to have happened, because there was another passage through which her majesty might have gone to Bergami's room, and that therefore it was improbable that she should hazard the going through that room. My lords, how stand the facts as to that public passage? It led to various rooms—to Dr. Holland's, Hieronimus's, William Austin's, and others; it was a passage frequented by the family; she ran the risk of meeting persons going to their bed-rooms, or passing through it for various purposes; and if there was a water-closet in that passage, of which my learned friend said so much, that might lead persons there; but Majoochi having been hired as a servant at the instance of Bergami, and directed to attend upon him, she goes through that room, believing at the time that Majoochi was asleep, and there she remains for that portion of time. What is there so impossible or improbable in this? There are two ways in which she can accomplish this—one, a public passage in which she is liable to the interruptions of all the servants; the other, in which she is liable only to the observation of Majoochi, if he was awake. It is said that Majoochi does not prove what passed between them, for that he heard only whispers. My lords, I do not care whether the evidence proves the adulterous intercourse to have taken place at that time, for it is evident that no woman of delicacy who had not had such illicit intercourse with a man, would go into his bed-room at such an hour, and be shut up with him for a quarter of an hour. As to the credit of Majoochi personally, I shall have to consider how far his evidence is contradicted; but I say he proves most clearly that an adulterous intercourse was carrying on between her royal highness and Bergami.

But it is said, there is a contradiction of this man by Dr. Holland in page 618. Majoochi swears that upon one occasion he saw the princess in Bergami's room at the time that Dr. Holland was attending Bergami in his illness. What does Dr. Holland depose to upon that subject? He is asked; "Do you recollect the princess coming into Pergami's bed-room, at the time you were dressing his foot?" "Certainly she did not?"—"Do you recollect the princess coming into Pergami's bed-room during any part of that illness? To my knowledge never."*—But, does he venture to swear that she did not? And whether at that time he was dressing Bergami's foot, or whether it was upon any other occasion, matters not. There is no direct contradiction of Majoochi upon this; for she might have been there upon another occasion when Majoochi might have been present and Dr. Holland present; and, though he swears cautiously, he does not swear that she was not there on any occasion during Bergami's illness. You have on the one side the positive testimony of Majoochi; you have only the equivocal testimony of Dr. Holland on the other. It was a fact which Majoochi could have no interest in stating or withholding; for if the other part of his testimony was true, it was perfectly immaterial whether her royal highness visited Bergami in the presence of Dr. Holland or not. If the rest of the case be true, and it is admitted to be true, there is nothing improbable, there is nothing inconsistent, in the account given by Majoochi; but it is very probable, that her royal highness, carried away by her passion for this man, should have visited him in the way described by Majoochi.

My lords; at Naples, by an extraordinary coincidence, undoubtedly several of her majesty's suite leave her service—sir W. Gell, Mr. Craven, and some of the female attendants who had accompanied her from this country—she proceeds from Naples to Civita Vecchia, and from thence to Genoa; and here, my lords, let me call your lordships attention to the evidence of lady Charlotte Lindsay with respect to what took place in the jouney from Rome to Civita Vecchia. My lords, it was said yesterday by Dr. Lushington,

* See p. 424 of the present Volume.

that all the facts of familiarity have fallen beneath our feet; that those facts from whence I had properly inferred, if they had existed, that there was this attachment subsisting between Bergami and her royal highness, have completely failed; and that no act of improper familiarity can be proved to have taken place, as making any distinction between Bergami and any other of her majesty's servants. My lords, my learned friend forgot at that time the evidence given by lady Charlotte Lindsay of what took place upon that journey. But before I come to that fact, let me call your attention also to what she states at page 515, because your lordships will find, that at Naples, singular as it was, Bergami is undoubtedly selected as the person to wait upon her royal highness, not only in the house, but upon their walks. If she dines in her bed-room with lady Charlotte, Bergami is the person to wait upon her; if she walks out with lady Charlotte, Bergami is the person to attend her. This is singular. He had been a courier all the way from Milan to Naples. Her royal highness could have had but little opportunity of observing either his manners or deportment upon such occasions; but so it is, that shortly after her arrival at Naples, that this person is constantly selected as the favourite attendant upon her royal highness. But, my lords, in the journey from Rome to Civita Vecchia, your lordships will find this singular circumstance: at page 519, lady Charlotte Lindsay is asked, "Does your ladyship recollect Pergami coming up to the window of the carriage, and addressing her royal highness, saying *à boire, madame*." Mark the answer. Lady Charlotte cautiously avoids giving a direct answer to that; but she says, "I perfectly recollect his coming up to the carriage, but is was after he was called." Now we shall see the reason why she says it was after he was called. "We had provisions in the carriage, and her royal highness gave him some of the provisions out of the carriage, and something to drink."—"Has your ladyship a distinct recollection that it was after he was called? I think it certainly was after he was called." But why, she has no reason, "but because it was more natural that he should not come till he was called to have some provisions given to him."* My lords, is that a reason? Does she venture to deny that he came without being called? Does she venture to deny the expression put to her as having been used by Bergami? No, my lords; there is that recollection about those facts which do not serve her ladyship to confirm them—that sort of recollection so frequently noticed by my learned friend, Mr. Brougham, in observing on the *non mi ricordos* of Majoochi. Throughout her ladyship's evidence you will find that tenderness of statement in touching on facts reflecting upon her royal highness. She will not venture, in any part of her evidence, positively to deny the facts to which she is interrogated; but she does admit that most important circumstance, that the bottle was handed from the carriage to this man—and rather thinks that he returned that bottle into the carriage. My lords, is this no familiarity on the part of a courier? Is it pretended that on any similar occasion, Carlo Forti, or any other servant, ever took such a liberty? No, my lords; it is Bergami, and Bergami alone, who ventures upon it. And why, my lords, does he venture upon it? Because of the familiar intercourse which had subsisted between them at Naples. He rides up to the carriage and addresses her majesty in a familiar manner; that is not denied—the bottle was handed out without any glass, and he returned it again into the carriage. Can it be gravely contended that this is not familiarity on the part of a servant, which would not be endured but for the circumstances which had previously existed? I state confidently, that that fact alone, extorted from an unwilling witness, speaks more than all the acts of familiarity proved by witnesses called in support of the bill; for lady Charlotte Lindsay is the solitary female called upon this occasion, to support the character and dignity of her royal highness, during the twenty-four days she was with her royal highness. She is the main prop and stay on this part of the case. There is no other English lady—English lady did I say? she is the only lady called before your lordships—female testimony being much more important than that of all the master masons, or colonel Olivieri, or all the gentlemen that could be called—but lady Charlotte Lindsay is the solitary female witness called to prove what she witnessed for twenty-four days, though she is compelled to admit, that she did afterwards withdraw, at the instance of her brother, in consequence of reports he had heard of her royal highness. And

* See p. 319 of the present Volume.

yet this is the only female called throughout this case to support the character and maintain the dignity of her royal highness during her residence in Italy!

My lords; having gone from Civita Vecchia to Genoa, mark what takes place there. My learned friends find that, with all their powers of eloquence, great and splendid as they are, it is impossible to explain this away, and therefore they say, "Nothing more natural, nothing more commendable, than that a man received into the confidence of her royal highness, who had been exalted by her from his merits, and admitted to a place at her table, should endeavour to introduce into her family his relatives and friends." But, my lords, where does this happen? At Genoa, where he was still a courier. He was admitted to her majesty's society only by stealth, when there was no vacancy in the establishment. At Genoa, mark what takes place! The child of Bergami, Faustina the sister, the mother of Bergami, and Louis Bergami, are all at once upon a sudden introduced into her majesty's family. My lords, you recollect how Mr. Hownam a little drew back when I asked him the questions as to Victorine and Faustina---"they were not in the family---he met them accidentally in the garden"---at last, on re-examination by my learned friend Mr. Tindal, who thought he had been a little inconsistent in the account he gave, "Oh yes, they were in the family, but in what situation he knew not." What, my lords, the mother and sister of the courier introduced into the family for no reason whatever—the brother of the courier introduced and made a page, though there was no person dismissed to make room for him! Mark the period; for it is most important in the consideration of this case. It is not after he has distinguished himself by his merits; it is not after the attack on the house at Genoa, when it is pretended that he had defended her with so much bravery---though if any person merited by his bravery on that occasion, it was that much-calumniated witness Theodore Majoochi ---but, before those merits had been discovered on the part of this courier, four of his relatives are introduced into the family. But, mark what takes place at Genoa. At Genoa he waited at table, when lord Glenbervie and the other persons dined; but from that time that ceased. Mr. Hownam tells you, that after Genoa he no longer waited at table. Before I quit Genoa, however, let me recall your attention to the most important facts sworn to have taken place at Genoa, both by Demont and by Majoochi. My lords, it was observed by Demont at Genoa, that her majesty's bed was not slept in. She is asked, "Did you observe the bed of the princess, whether it had been slept in or not? Most often it had not been slept in." And, my lords, I think she and Majoochi both prove, that at Genoa, her royal highness and Bergami frequently breakfasted in a small cabinet at the end of the grand saloon. Now, my lords, let me call your attention to the proof of that fact, and to the power my friends had of contradicting it, if it was not true; for at Genoa our witnesses have exposed themselves to most material contradictions if they spoke untruly—Majoochi states, that Camera and Louis Bergami occasionally waited with Majoochi upon them when they breakfasted at Genoa and at other places. Demont is asked, "Do you know who waited at breakfast? Louis Pergami and Majoochi." I think your lordships will find, that upon other occasions, Majoochi states the breakfasting at Genoa and at Milan, and that upon these occasions also, that Louis Bergami occasionally waited with him.

Mr. *Denman*.—Quite the contrary, indeed.

Mr. Attorney General.—I am told he expressly said the contrary, therefore I will refer to it, at page 13. "Did you wait upon them at breakfast? Sometimes I did; sometimes I did not." "When you did not, who did wait? Either Louis Pergami or Camera."* Then, my lords, I say I have established out of their evidence, that the facts to which they have deposed with respect to the breakfasting, might have been contradicted by Louis Bergami and Camera, and those witnesses have challenged that contradiction; but although we are triumphantly told, they have contradicted every fact they could contradict, here are these facts sworn to which might have been contradicted; Louis Bergami and Camera being still in the service of her majesty, both or either of them might be called to contradict them. My lords, mark the distinction between evidence which may be contradicted by witnesses still in the power and about the person of her royal highness—mark the difference between the strength

* See Vol. 2, p. 813.

of that evidence, and the strength of evidence of a similar fact told by two concurrent witnesses in support of it. My lords, two concurrent witnesses may have formed the same story before they came before your lordships---they are witnesses to prove the fact---they may be in conspiracy together; and therefore the fact may not receive confirmation by the testimony of the second witness; but when the fact is sworn to as having taken place in the presence of a person still in the service of her majesty, and who might have been produced to contradict it, it is proved infinitely more strongly, and infinitely with more effect by the absence of that person. Her majesty has stated, through her counsel, that she wishes to call every witness who can clear away the slightest suspicion upon her character. When, therefore, my learned friends, in their discretion, acting upon that judgment which I have no doubt was well exercised, neither call Louis Bergami nor Camera to contradict that most important fact---and marking the familiar intercourse which existed between the parties; namely, that in seclusion from the rest of her suite, apart from the eye of her English attendants, she is breakfasting in private with this servant, this courier, who had not distinguished himself by any meritorious service, or any faithful exercise of his duty---that fact alone, uncontradicted, proves all that I stated, proves more than I stated, with respect to the habits of familiarity which existed at that time between her royal highness and Bergami.

My lords; I proceed from Genoa to Milan. Now, my lords, look at what takes place at Milan. Bergami is still a courier—though no longer waiting upon her royal highness at table—she is at Milan left at last without any English female of distinction attendant upon her. My lords, within two days after the departure of lady Charlotte Campbell, who makes her appearance as the dame d'honneur at Milan, to attend upon her royal highness? The countess Oldi! Who is she—by whom recommended—what were her qualifications? No evidence whatever is given upon that part of the case, but that she is the sister of Bergami. Is she known to be the sister of Bergami at the time she is introduced into her royal highness's service? This man whom she had already distinguished by marks of favour and condescension—who had so much ingratiated himself with her royal highness—was there any thing discreditable in introducing into her service the sister of this person? If there was not, why disguise it, why conceal it, why is it not known in the family that she is the sister of Bergami? Dr. Holland is with her. Could any thing be more natural than that she should have said to Dr. Holland on the arrival of madame Oldi, "You see I am left without any English lady; I am really without a companion; I have sought in vain for an Italian lady of distinction; I have applied to Mrs. Falconet," (I mean she might have done so,) "and the other acquaintance I have formed at Naples; they have declined the honour; I am driven to the necessity of applying to the countess Oldi; she is accomplished, she has moved in the higher classes of society, she is a fit companion for me; but I must tell you at the same time, she is the sister of Bergami the courier: it is rather an unpleasant circumstance that he should be in a menial situation, and she sitting at my table; but in the difficulty in which I have been placed, I have been under the necessity of applying to this lady; here she is, and allow me to introduce her to you." My lords, nothing of the kind passes. Dr. Holland is eight days in the house with her, and dines with her every day; she speaks not French, but Italian—what sort of Italian you have heard. Her royal highness at that time speaking French, and very little Italian--therefore this companion is introduced, with whom she can keep up no regular conversation, with whom there is a difficulty of interpreting their sentiments on men and manners—and this is the lady selected by her royal highness at that time as her dame d'honneur! My lords, I submit, with confidence, that this marks most strongly what at that time was taking place, between her and Bergami. Nay, even after Bergami is advanced to her table, when he is dining in company with lord Guildford at the Villa d'Este, she is introduced merely as the countess Oldi. Would it not have been natural to have said, "here is Bergami my chamberlain, and here is the countess Oldi his sister, who is my dame d'honneur." Why conceal the family connexion between the two? This speaks as strongly as any fact can do, that the intercourse at that time subsisting between herself and Bergami was of the nature to which I have so often alluded, that in consequence of that, the sister was

chosen, that it was Bergami to whom she owed this situation, and that therefore the sister was not likely to mark with a scrutinizing eye the intercourse kept up between her brother and her royal highness. No, my lords, it would not do at that time to have any more English ladies to attend upon her—it was not fitting that any Italian lady of distinction and character should be introduced into her suite—it was then prudent to confine herself to one lady of honour, though she had previously had two, and that lady of honour, the sister of Bergami, introduced not as a sister, when another sister was in the family, in a subordinate situation. Mortifying it must be to any delicate female mind to dine with her royal highness, whilst her nearest relations, and even her mother, was excluded from the table, and introduced—for what purpose I ask your lordships? Was she in any situation in the family. No, my lords; but, because it was convenient that Bergami should surround her royal highness with all his friends and connexions, to exclude the observations of others upon his conduct and therefore it was; for that reason, and that reason only, that the countess Oldi was at that time introduced.

My lords; before I quit this part of the case, let me call your attention to a fact which has received neither comment nor observation, still less an answer—I allude to what took place on their visit to Venice, when Dr. Holland was of the party. I call your attention to the witness Bianche, whose testimony has not been attempted to be impeached. Although my learned friend, Mr. Denman, has commented with much minuteness upon this case, he has thought fit to refrain from observing upon this fact. Indeed, when I say *this* fact, almost all that took place between Genoa and the embarking on board the Polacre in Sicily, has been omitted by my learned friends in their observations. They say, "Oh, we pass over all these transactions; we think them immaterial and unnecessary to be observed upon." Undoubtedly, they were by them unnecessary to be observed upon, because they had no answer to give, either by observation, or by way of evidence. Bianche might have been contradicted by a host of witnesses, if what he states is not true. He is asked, in p. 214, "Do you recollect a jeweller being in that house one day? I do."—"Did the princess purchase anything from him? She bought a Venetian chain."—"Was that during dinner time, or before, or after dinner?" Now mark, my lords: "The jeweller came at the end of the dinner, when all the company were going to get up from dinner."* My lords, Dr. Holland has been called, lieut. Hownam has been called, but not a question is put by my learned friends. I cross-examined Dr. Holland and lieut. Hownam as to being at the dinner, but not a question was asked them as to this passing, or not. My lords, I know, and I allude to it with the contempt it deserves—I know that in the public newspapers, and particularly in one newspaper, to which I cannot help alluding, things have been published from day to day, which perhaps your lordships in your wisdom have thought fit to overlook, but which have disgraced the country, and disgraced those who attempt to vindicate her majesty's cause. No, my lords, they do not dare to confront these witnesses in your lordships' House; and then this infamous paper has had the audacity to publish circumstances, not for the purpose of influencing your lordships judgment, for you are above that, but of misleading that public which, with so much effect, has been misled. But, this person, Bianche, has exposed himself to contradiction in every part of this. It is true, that the subsequent fact of the use of the chain took place after the company had withdrawn; but the purchase of the chain must be known to every one of them if it took place. Lieut. Hownam and Dr. Holland were there, and they might have contradicted the fact, not only of the purchase of the chain, but of her royal highness and Bergami being left together in the room. I am entitled, therefore, to say, that Bianche's evidence is true; your lordships have heard that Vassali has recently brought from Venice some of the witnesses produced; but, upon this fact, they cannot bring one witness, and therefore this case stands confirmed. My lords, observe what the fact is—that after this chain was purchased, and after the company had gone from the room, "she took the chain from her own neck, and put it round the neck of the courier—the courier afterwards took it off from his own neck, and put it round her neck; and then he took her by the hand, and accompanied her into the room where

* See Vol. 2, p. 1088.

they went to drink coffee." My lords, when we are told there is no evidence of familiarity between her royal highness and her courier, at the time he is courier, undoubtedly in the presence of the English persons in her suite, there is no impropriety observed. Surely, after the hint given to her by Mr. Keppel Craven, which must make her feel the importance of being guarded in her conduct before him, it is not remarkable that these persons saw nothing, and that my learned friends are enabled to call them to prove negatively, that they saw nothing from whence to draw an inference, that those facts, sworn to have taken place in their absence, did not take place. But, my lords, I say, this most important fact at Venice stands uncontradicted, confirmed by the now contradiction, and unobserved upon by my learned friends.

My lords; after the return from Venice, her royal highness took a tour to Mount St. Gothard; but before that tour, Mr. William Burrell, who had been for a short time in her house, had quitted—Dr. Holland had quitted; and there was no English person remaining in her suite but Mr. Hownam, the person whom she had patronized, whom she had promoted, and who was therefore under the greatest obligations to her. My lords, on that tour Demont stated to you, that at Bellinzona, Bergami, habited as a courier, who had travelled in the same carriage with Hieronimus as a courier, sat at table with her royal highness and Mr. Hownam. Is that fact true, or is it false? Mr. Hownam confirms it. Nay, my lords, that gentleman, though his recollection is so frail upon many parts of the case, states the particulars. He is asked, at p. 725, "Did not Pergami accompany her royal highness on that occasion as a courier? He was dressed in a courier's dress, but he then rode in a carriage."—"In the course, of that tour, did not Pergami dine with her at Bellinzona?" "He dined with her royal highness, I think it was at Bellinzona."—"Was not Pergami at the time dressed as a courier?" "He was."—"Did you dine with her royal highness upon that occasion?" "I did."—"Did he, after that time, occasionally dine with her in his courier's dress?" "Never afterwards in his courier's dress." And yet, my lords, the question but one after that, when he was asked whether he did not dine with her at Lugano, he "thinks he did."—"Was he not then courier, as he was upon former occasions, when he dined with her royal highness?" "It was upon the same journey."—"Do you remember any other place in the course of that journey in which they dined together?" "No, I do not." And then, when he is reminded of the Devil's Bridge, "At the Devil's Bridge did they dine together?" "That was on the same journey—I rather think they did. In a courier's dress upon all those three occasions."* My learned friends felt that this required some explanation, some observation in argument. It was stated, that this was quite an accidental circumstance; it might be that there was no other accommodation for the servants, and that therefore, in this tour, her royal highness was only conducting herself with that affability which marked her conduct to her other servants, when she permitted Bergami to dine with her at Bellinzona. But unluckily, my lords, for the argument, there was that old tried and faithful servant Hieronimus there—there was the fille de chambre Demont; but neither of those was admitted to her royal highness's table. Bergami, and Bergami alone of all the servants, not only at that time, but, according to Sicard's testimony, who had ever been in her royal highness's service, Bergami alone is admitted to that honour—and admitted to that honour at the time when he is a menial servant, and wearing the dress of that menial servant.

My lords; I thought I heard a question proposed upon that part of the case, to give a colour to the manner in which Bergami dined with her royal highness, "whether his dress was that of a livery servant, or like the more splendid dress of a hussar?" Good God, my lords, can it matter whether it was a more splendid dress of gold and green, turned up in imitation of a hussar's dress, or whether it was the dress of a person ordinarily in that situation? Does the colour of the dress excuse her royal highness? No, my lords; the fact which makes against her royal highness is this, that at that time he was her menial servant, that on other occasions he was living with her menial servants, and that he, and he alone, was admitted to her table—it only shows, that when these facts come to be dealt with by persons of understanding and acuteness, how difficult they find it to frame an apology for these circum-

* See p. 513 of the present Volume.

stances, and that therefore they have recourse to the dress which Bergami wore upon that occasion, to excuse her for admitting him to her table. Hieronimus, who had been her servant for years, is still her servant—he had been faithful to her—he was at that time in exactly the same situation, nay, higher than Bergami, and yet he is not admitted upon that occasion. And while I am upon that part of the case, I would remark, that either Mr. Denman or Dr. Lushington, said, that at Genoa, Bergami, having been a courier and valet de chambre at Naples, was advanced in consequence of the absence of Sicard; that he became her maitre d'hôtel, and that therefore it became a matter of course that he should hire the servants. My learned friends, driven as they are to all sorts of excuses, forget the evidence; for if they had turned to their own witness, Mr. Hownam, at p. 725, they would have found, that he stated, that "though Hieronimus travelled occasionally as a courier, he was the maitre d'hôtel as he always imagined."* Why, my lords, he was her long-tried servant; nothing so natural as that he should become at the departure of Sicard, the maitre d'hôtel; and therefore the supposition, that it was natural to devolve upon Bergami the situation of maitre d'hôtel, and that therefore he had the means, without the particular knowledge of the princess, of introducing all those members of his family, falls to the ground—but Hieronimus is not admitted to her royal highness's table at Bellinzona, and Bergami is.

I will not detain your lordships at present upon what took place at the Villa d'Este, after the departure of Mr. Burrell; though it is not an unimportant fact, that the recollection of lieut. Hownam does not completely serve him—he thinks that at one time these pastimes took place in the evening between her majesty and her servants, which was not till after the departure of Mr. Burrell. In a subsequent answer, he rather thinks that at the Villa Villani Mr. Burrell was present; I can hardly think so. I can hardly believe it of a person of Mr. Burrell's rank and station in society: he might, for once, perhaps have been under the necessity of joining in these amusements, but I can hardly think he could join a second time in the amusements stated to have taken place at the Villa d'Este, amusements attributed to that remarkable condescension and kindness which her royal highness displayed towards all her domestics—but I think your lordships will believe, that those amusements did not take place during lady Charlotte Lindsay's residence with her royal highness; for she deposes to none. They took place at the Villa d'Este; and when her royal highness is left by all her English attendants but lieut. Hownam, then she amuses herself with the Bergamis and the connexions of this family. But, my lords, I say this marks the general passion of her royal highness, how unconquerable it was, and how it produces in her that conduct which I think did not become her high situation, notwithstanding that "affability and condescension" which she displayed towards her servants; but, I say, it marks still more strongly that which is charged against her upon the present occasion, that familiarity with her favourite servant Bergami, and the intercourse daily going on between them.

But, my lords, before I quit Italy, let me call your attention to the evidence of my lord Guildford—evidence, my lords, most important, in my view of it, in support of the bill. I know that after lord Guildford was examined—after Mr. Craven, sir W. Gell, Mr. Mills, Dr. Holland, and lady Charlotte Lindsay were examined—it was supposed that when they, being English witnesses, deposed to such a case in favour of her majesty, it set at nought all the facts which had been proved against her. It met my ears, after I left your lordships' House, that this evidence, if it went on in that way, would immediately destroy the bill, and destroy all the evidence which had been given in support of it, because they were English witnesses, and English persons of credit, and because—what? because they had proved that they saw nothing with their own eyes improper in her majesty's conduct! For, my lords, such is the account which they give in support of her majesty's defence. But, my lords, they do let out some facts, which not only confirm, but which, I say, alone would prove the case in support of the bill. What does lord Guildford prove? That a few months before (I think at Leghorn in the month of March) Bergami had been waiting behind her majesty's chair at the time he dined with her—in the month

* See p. 513, of the present Volume.

of November following, within the space of four or five months, my lord Guildford visits her at the Villa d'Este, and, I should think a little to his lordship's surprise, in his approach to that villa, he sees in a boat alone her royal highness and that person Bergami, who, a few months before, had stood behind his chair waiting at table. It is therefore true, my lords, that her royal highness was in the habit of going in this canoe with Bergami, which was proved by our witnesses, but which was so much scouted by the other side, as if they had been suborned to prove perjury. Why, my lords, the fact is proved by one of your lordships House, by a witness called to prove the defence. Lord Guildford proves, that on his approach to the Villa d'Este, he found her royal highness and Bergami alone in a canoe; and, I think still more to his surprise, when he sat down at the table, on the one side of her royal highness was himself, and on the other, the person who waited behind his chair when last he was there. My lords, did her royal highness condescend to give any explanation of this? The countess Oldi also was present; but she was not introduced as the sister of Bergami. How can we account for this? Did not her royal highness tell him there had been this extraordinary affair at Genoa, in which she owed her protection and her life to the services of Bergami? that there had been this baron Ompteda, of whom we have heard so much in discussion, and nothing in proof—that there had been this conspiracy among all her enemies—and that to prevent their efforts, she had advanced this man (a circumstance which must appear surprising to his lordship) from the menial situation of courier, to sit at her table? But no, my lords, the dinner passed in silence; they dined together the following day at Milan in silence upon this subject—the countess Oldi was not introduced as the sister—no reason was given to lord Guildford for his advancement. Can you doubt, my lords, when those reports and rumours of which we have heard, actuated his lordship's mind to advise his sister to quit the princess's service, and she did so in deference to that nobleman—I wish to make no harsh comments upon the evidence he has given, or his want of recollection to certain facts, I leave them to your lordships, —but can any man doubt that what lord Guildford saw upon that occasion, I mean the fact of the advancement of Bergami without a cause assigned, the discovery afterwards that the countess Oldi was his sister, coupled with those reports which it is said circulated abroad—operated upon his mind to induce his lordship to do that which he was right in doing; namely, to advise his sister not to rejoin her royal highness, for that it would not be creditable to her to do so, and that she acted well upon that advice?

My lords; I have heard it said, that private confidence has been abused, and that questions were put to lady Charlotte Lindsay which ought not; but, my lords, in the investigation of truth, and when witnesses are produced as the main prop and stay of her majesty's defence, to prove her conduct and her character, if that person has, at other times and on other occasions, made representations inconsistent with that evidence, I say the ends of justice would be defeated if those declarations and those expressions, and that conduct were not dragged to light, in order to show what true weight is to be given to the testimony thus adduced. My lords, if private confidence could have been violated in the manner in which my learned friends describe (I only allude to it, I have no right to comment upon it perhaps), private confidence must have been violated to a much greater extent on the other side; but if those facts were made known, as they were to me, unsolicited, unsought for on my part, I ask your lordships whether, in discharge of the duty you have cast upon me, I should have fulfilled that duty with honour to myself, if I had withheld, out of delicacy to lady Charlotte Lindsay, or any witness, however high in rank, those facts which I thought material to the truth? Would it have been correct on my part, when a witness was called to speak to the character and conduct of the Queen for twenty-four days, but who, from her rank and station and acquirements, was supposed to be a witness to carry great weight with the public by her testimony—would it have been just to your lordships, and still more to myself, if facts had come to my knowledge showing that when her ladyship stated she had not seen incidents with her own eyes, there was that extraordinary incident of Bergami coming to drink at the side of the carriage, it was my duty to see whether she had not acted subsequently under other impressions, and therefore whether she was a witness to be relied upon, as to facts to which she spoke, in contradiction to those proved on the part of the bill.

My lords; the recollection of lady Charlotte Lindsay fails her as to her royal highness and Bergami walking arm in arm in the garden, La Favorita, at Naples. She does not deny the fact, but her recollection does not serve her. We have heard powerful comments upon that sort of answer given by an Italian witness—how powerful would they have been by my learned friend, Mr. Brougham, if they had been applied to English witnesses betraying the same want of memory! To Italians we attributes it to a disregard of truth, and a wish to conceal that which may make against the case to which they come to depose. An Italian is to be made the subject of quotations from Cicero, to embellish and adorn that otherwise extraordinary speech. I say, with what eloquence would my learned friend have dealt with English witnesses giving this answer! And yet, if your lordships will examine the testimony given by the English witnesses on the part of her majesty, I would venture to produce to you as many *non mi ricordos* as ever existed in the testimony of Theodore Majoochi.—My lords, we now come to her majesty's departure from Italy. She embarked on board the Leviathan, captain Briggs.

Earl of *Lauderdale.*—Perhaps this will be as convenient a time as any, if the learned counsel wishes for a short interval.

Mr. Attorney General.—If your lordships please.

Mr. *Denman.*—Before your lordships separate, will you allow Mr. Brougham to be sent for? He has an application to make to your lordships, which he thinks it essential to make at this moment.

Mr. *Brougham.*—My lords, I should think I did not discharge my duty, if I delayed one moment longer than the necessity of the case required, stating to your lordships, that while my learned friend, the attorney-general, has been engaged in his able argument, a most important communication has been made to me. My lords, I have no right, certainly, to produce evidence, but I have letters, original letters, in the hand-writing of the baron Ompteda, signed by him, "Ompteda, Ministre d'Hanover,"—proving him to have been, at the date of those letters, in correspondence with the household of her majesty, attempting to seduce them, looking out for individuals to seduce, and among others, Mariette Bron;—and that I may answer to the question, Why do you not call Mariette Bron? My lords, I have them here, I am ready to prove the hand-writing. I have received them within the last hour.

Mr. Attorney General.—My lords; in the first place, they are not evidence, and, in the next place, there never was an application attempted to be made at such a period of the case.

The Earl of *Liverpool.*—My lords, I was as much taken by surprise as any of your lordships; at all events, this certainly is not the period to produce them.

Mr. *Brougham.*—My lords, I thought it my duty, immediately on receiving them, to communicate them to your lordships, lest it should be attributed to me that I kept them back—it is important, as showing that I was right in my suspicions as to Mariette Bron.

[The House adjourned during pleasure.—When the House was resumed, the Attorney General proceeded as follows:—]

Mr. Attorney General.—My lords; it is not my intention to be diverted from the course of observations I was pursuing, when last I had the pleasure of addressing your lordships, by one of the most extraordinary applications that I believe was ever before heard in a court of justice, and in the middle of a reply. I shall have occasion to observe upon that, in another part of the observations which I have to make to your lordships; but I shall now pursue the evidence where I was interrupted by the indulgence which your lordships have been kind enough to grant me.

My lords; I was coming to the period at which her royal highness embarked on board the Leviathan at Genoa—and, my lords, in coming to that part of the case, I cannot but remind your lordships of the evidence given by Demont and Majoochi of the disposition of the rooms at Genoa, at Milan, at the various places they visited after their first arrival at Genoa. My lords, I only recall your lordships' recollection to that part of the case to state this—that that disposition of the rooms is not contradicted by any evidence on the part of the defence. In one instance only a contradiction was attempted with respect to a stair-case. At the Villa d'Este, where Majoochi stated that there was a secret stair-case near her royal highness's room, not generally used by the family, and in which a contradiction is attempted by lieut. Hownam, who

states, that it led to the apartments of himself and others of the family; but which he himself believes had only been used by himself.

My lords; I call your lordships' attention to that part of the case at this period of it, because you will find the same system pursued by her royal highness when she embarked on board the Leviathan. Captain Briggs had made a certain arrangement and disposition of the cabins, placing her royal highness and the countess Oldi in two cabins inside the dining-room, placing her female servants in the place to be sure which would naturally occur to any one to place them in, namely, a room immediately adjoining her royal highness's, and having an internal communition with that room or cabin. My lords, her royal highness disapproved of this arrangement. She preferred that which had been her universal practice, of having Bergami, her equerry, placed in the cabin immediately adjoining her own, and in that cabin that captain Briggs had appropriated to the female servants. My lords, in p. 160,* captain Briggs states the appropriation which he had made of the cabin for the accommodation of her royal highness and her servants, and he states subsequently, that that disposition was altered by command of her royal highness; and your lordships will recollect, in his last examination, he stated it was an alteration in which Mr. Hownam had concurred,† by the approbation of her royal highness—a fact, however, which Hownam's memory had not retained, as well as a part of the conversation with captain Briggs, which, in Mr. Hownam's re-examination he had quite forgot had taken place, although that conversation occurred only a month or six weeks ago. My lords, why do I remark upon this alteration of the cabins? Because, I say, it is part of that system and that habit that runs through the whole of the evidence in this case. What occasion was there for Bergami to be the person placed immediately near her royal highness on board the Leviathan? Would it not have been equally safe for her to have had her female servants in a room immediately adjoining to hers, and Bergami at some distance? Was there any apprehension entertained by her of any thing improper occurring on board the Leviathan, that should have induced her to this alteration? Nothing. But, my lords, the favourite Bergami, the equerry, is selected upon that occasion to occupy the room immediately adjoining her royal highness's; and although the internal communication in consequence of that arrangement was shut up, you will find, that the door of his cabin opened immediately contiguous to that of her royal highness; so that it afforded that facility which, upon all occasions anterior, had been afforded, of an easy access and communication between the sleeping apartment of her royal highness and that of Bergami. I know very well, that upon the cross-examination and the examination by your lordships, a strict inquiry was made of captain Briggs, how far Bergami might find his way into the princess's room without being observed. My lords, I wish to make no comments on that evidence; but I think you will perceive that it was most easy for him to have accomplished that purpose if he had liked it, without any observation. Captain Briggs slept in the dining-room, but on the opposite side, in a part divided off at night from the other part. He states, that though he might be interrupted at night, by persons coming to state what was passing on deck, yet that a person so communicating with him could have approached his room without interrupting any person who might have wished to have gone to her royal highness's room from the cabin of Bergami. My lords, that arrangement was made by her royal highness; and it is in proof to you by captain Briggs, that that occurred aboard his ship which has been spoken to by so many other witnesses; namely, that her royal highness took the arm of Bergami when walking on the quarter-deck.

On board this ship her royal highness visited Elba, and afterwards proceeded to Sicily, and my lords, it will be material for your lordships to attend to what occurred in Sicily after her arrival there. At Messina facts are deposed to, both by Demont and Majoochi.* Demont of the indecent familiarities which took place between her royal highness and Bergami. My lords, it was supposed, that there were some variances between their testimony respecting her royal highness and Bergami kissing at Messina; but there is no evidence that they were speaking to the same period, and they state the expres-

* See Vol. 2, p. 951.

† See p. 1023 of the present Volume.

* See Vol. 2. pp. 1132 and 817.

sions of her royal highness. She addresses him as, "*Mon cœur, mon ami;*" words which no woman would have used to a servant unless there had been that familiarity between them which is imputed to her royal highness.

My lords; I will next call your lordships attention to a most important fact in this case—I mean what took place at Catania; my lords, a fact is spoken to by Demont, which if true, proves beyond the possibility of a doubt, that an adulterous intercourse took place at Catania. She states, that in consequence of some illness which Bergami suffered at Catania, a change of his sleeping apartment took place, and that he occupied a room that had been previously occupied by the countess Oldi—that between that room and the room occupied by her royal highness, there was another sleeping apartment occupied by Demont and her sister, and that the communication between the princess's room and the countess Oldi's room, was through that room so occupied by Demont and her sister. In consequence of that change, the countess of Oldi removed from that room which she had occupied with the little Victorine, and in which Bergami afterwards slept. Demont states, that she heard the door of her royal highness's room open at night; she also states, that upon one morning, having remained in her room rather later than usual, she saw the room door in which Bergami slept open, and her royal highness come out of that room in the dress she usually wore when she went to bed and with the pillows on which she usually reposed unher arm.

My lords; we are told in this case, that Demont is a witness unworthy of credit. Various observations were made by my learned friends upon the testimony of that person, and we have had most eloquent dissertations on the credit of discarded servants—still more, on the testimony of Demont after those documents were produced, one written to her royal highness, and another to her sister. And I did suppose, from the line of argument they took, that they were so satisfied in their own minds (at least they chose to affect to be so satisfied), that the testimony of Demont was not to be relied on, that I was astonished when I found at the close of their case, that they felt, notwithstanding all their observations, and all that magnificent display of eloquence bestowed on this chambermaid by my learned friends—that they had so far failed in the impression they intended—that the ground they had taken was so weak, that their last witness, called over at the last moment, arriving in this country only the night before she is produced—a milliner from Morje—is produced to establish a contradiction to Demont upon a collateral fact, upon which we have heard so much, with respect to the testimony of lieut. Flinn, upon which I shall observe when I come to discuss that gentleman's testimony. So weak did they find their ground of attack—knowing that Demont had not been shaken—that every step they took confirmed and strengthened her narrative—as a last resource, at the last moment when the case was about to be closed, they call this milliner from Morje to depose to a conversation between her and Demont, in April 1818, in order to destroy her testimony by that contradiction! Why, my lords, if I wanted any other demonstration that my learned friends felt that her testimony was not shaken by those letters, this is a strong proof that they felt it.

What are the circumstances attending those letters? It is with pain, that, in an accusation against the Queen of this country, we should have it come out in evidence that a paltry intrigue had taken place with respect to that female—that when we talk of violation of private confidence, not only was private confidence violated, but Demont's letters to her sister were intercepted—that letters to her sister are extorted from that sister to destroy her testimony. And what does it amount to? I say the first letter of Demont written from Rimini, contains an expression in it which satisfies my mind that she felt the ground of intimacy between the Queen and Bergami; that she knew they were living together as man and wife, and at the head jointly of the establishment at Pesaro. For I call your lordships attention to a remarkable passage at the commencement of the letter from Rimini, which marks strongly what Demont felt with respect to the connexion and familiarity of intercourse which existed between the baron and her royal highness. "I cannot sufficiently thank her royal highness and the baron for their kindness in sending Ferdinand to accompany me; he has paid me all the attention and taken all the care of me imaginable. I

know not how to acknowledge so many benefits,"* and so forth. Here is the baron and the Queen united together in the same sentence, as both concurring in that act of kindness which they had conferred upon Demont; and I say, that that accidental expression in the letter coupling the baron with her royal highness as the persons who had conjointly conferred those favours, speaks to my mind demonstrably what had passed in the mind of Demont.

But then, my lords, you are told, that the other letter to her sister, written under circumstances which she has described marks the hypocrisy of this woman, and therefore her testimony is unworthy of credit. My lords, I say that when you consider all the circumstances under which she was placed—when you recollect the intrigue of intercepting her letters before she left her royal highness's service—when you remember her sister was still in the service, and that she knew that her sister was watched by that person, and that her letters were intercepted—I say at that time it was extremely natural for Demont to take care to express in these letters nothing which should excite the suspicion or jealousy of her royal highness—I say that is the clue to the whole of that letter; and in part of her evidence, she states, at page 351, "I have often had questions put to me in private conversation, and I have always avoided saying what took place in the house; this is the reason why I wrote that letter to my sister."† I say, my lords, that is a clue to the conversation, if it did pass between her and Madame Martigner in 1818—she was questioned—she carefully avoided entering into details of what had taken place in the house. Knowing her sister was in the family, and how dangerous it was for her to say any thing discreditable to her royal highness, she took care to avoid stating what had passed; and her letter conveys nothing, whatever, contradictory to the evidence here detailed. She is complimenting her royal highness's various virtues; but it is because she knows the letters will be seen—it is because she knows, that her sister might be discharged from the situation, who had not the means of subsistence which she herself had. But, recollect the cross-examination of Demont—how she is tortured as to whether she went by the name of the countess Colombier—and not a witness is called to contradict those answers! For what purpose were the questions put? I ask your lordships whether it was not intended as a medium by which they should contradict Demont by witnesses they should afterwards produce? My lords, they have failed to produce any such witnesses—the sole witness is Madame Martigner; and it is as to a conversation to which Demont was not asked when she was first examined; but there is not any person to say she went by the name of the countess of Colombier in Frith-street. Her evidence, therefore, stands confirmed by the other testimony given in the case; but confirmed still more strongly by the absence of those witnesses who might have been called to contradict her. Do not let me hear of Mariette being the person to contradict her as to what passed at Catania. "No," says my learned friend, "she does not swear Mariette was present, and therefore to produce Mariette would be no contradiction at all." But there was another witness to prove the fact most satisfactorily. I mean the countess Oldi, from whose room Demont says the princess went—from whose room she absented herself in the night, Victorine crying in consequence of the absence of her foster mother, the princess. She is not produced—because she must have confirmed the fact, and that would at once have established the whole case attempted to be made out against the Queen. I trust I have satisfied your lordships as to the testimony of Demont—watch it with suspicion, examine it with care, see how it accords with the other parts of the testimony, see where it is confirmed, and where attempted to be broken in upon—but do not let us run away with a notion of those letters of hers destroying her credit. My learned friends do not think it, as they have tried to destroy it by other means, and have failed to do it; and I say, that by that failure they have established Demont's evidence.

My lords; at Catania, therefore, I submit to your lordships, that the case is proved by the testimony of Demont, uncontradicted by those two witnesses, one of whom might have positively contradicted the fact, if she had been present, and if she were not, she could not have contradicted it; but the most Demont says is, that she does not recollect whe-

* See Vol. 2, p. 1234.
† See Vol. 2, p. 1203.

ther her sister was there, but she rather thinks she was, than that she was not—Page 282 is that part of Demont's evidence which relates to that part of the case.* The countess Oldi was brought over by count Vassali; she is in this country, and yet neither of them is produced to contradict a fact so important, so material in the case.

My lords; at Catania honours were bestowed on Bergami—he is created a knight of Malta, and either there, or at Augusta, he is created the baron della Franchina. Some observation was made by my learned friends, that those honours were not proved to have been obtained by her royal highness—"they are," said he, "to be purchased for money, and you have no evidence that the money proceeded from her royal highness." In what situation was Bergami? He had been a courier at forty or fifty Louis a year.—What means had he to procure those honours? I say it would be trifling with your lordships to argue upon such miserable points as those attempted to be made out on the part of the defence—I say those honours were procured for him by her royal highness; and though my learned friends say, these facts bear nothing against her royal highness, I say they prove every thing—they show that this man growing in her favour was the only person in her suite honoured in this way—he is the only person, an equerry, for whom the knighthood of Malta and the barony della Franchina are procured.

My lords; at Augusta your lordships will recollect the facts sworn to by Demont, at page 284 and 286,† with respect to the portraits there painted for her royal highness—one for Bergami of herself in the character of a penitent Magdalen, the other Bergami as a Turk; and those pictures were seen in the possession of Bergami. Why, my lords, how do you account for these things? Portraits of her royal highness bestowed on a servant! How do you account for it? She is in daily intercourse with him; these facts take place before the eyes of her servants; a portrait is presented to him by her royal highness—these things do not take place except between lovers. They are striking facts—but they are facts which my learned friends have most adroitly kept out of your view—they say, "We will show you she slept under a tent on board the polacre, where Bergami also slept, unspotted and untainted—that there was no familiarity unbecoming her station"—Dining with a courier, in his courier's dress is passed over, and then they say, "We will show her passing her time on board the polacre a spotless and unstained character, and therefore you must consider all that occurred before as out of the case, and you must consider all pure up to that time."—You will consider her habitual situation, her manner of living, the personal distinctions bestowed on this man, and bearing this in your recollection, then indeed my learned friends would have been bold to advance to the case of the polacre, to which they said they advanced with such delight, but which, by an accidental omission, Mr. Brougham omitted to mention in his speech. Mr. Williams says, that Mr. Brougham made that accidental omission in his able and eloquent speech, although he commented on the evidence of Gargiulo and Paturzo. But that is supplied by my learned friend, Mr. Williams. He ventures boldly on the case; he says he advances to it with the greatest satisfaction, and that it is a case which he wishes, of all others, to grapple with. He is followed by Mr. Denman, and Dr. Lushington, in the same strain; and at one period of the case, when these facts of the polacre were coming out on my learned friends a little unexpectedly, Mr. Brougham says, "I admit all that"—"That is part of our case," he says—But we shall see how far it is part of their case, or how far it was part of the case in support of the bill.

But, my lords, before I come to the scenes on board the polacre, let me observe upon what took place on her royal highness going on board the Clorinde, captain Pechell. My lords, she had been on board that ship before, on her voyage from Civita Vecchia to Genoa, and at that time Bergami had waited behind her chair, as a menial servant. On the second embarkation on board that ship at Messina, Bergami had been advanced in the manner we have described. Captain Pechell, with a feeling which reflects the greatest credit on that manly officer, says, "I cannot submit to the degradation of admitting to my table, a man who had previously lived in a menial capacity, and had actually waited behind my chair"—because it is clear this was

* See Vol. 2, p. 1137.

† See Vol. 2, p. 1138.

passing in his mind. "I have heard, and seen nothing which can justify such an advancement. I can infer nothing but what is disgraceful, and I will not degrade the character of a British captain, by sitting at table with him." I have heard in a tone of exultation, from my learned friends, that captain Pechell, and captain Briggs, were their witnesses. How far captain Briggs is their witness, after his contradiction of Mr. Hownam, I do not know. They are our witnesses, they say, and therefore we marshal them in the front to support the defence. Do they? Can any man observe the conduct of captain Pechell and her royal highness on that occasion, and draw any other than one conclusion? Captain Pechell communicates to her, through captain Briggs, his objection to Bergami—that that is the only objection he has to providing at table for her, and her suite. What would have been the conduct of her royal highness, if the advancement of Bergami was innocent—if the exaltation of this man had been owing to some services he had performed for her? In the mind of any honourable female, she would have said, "Captain Pechell, I have advanced him to that situation, and having done so, you will not degrade yourself, by participating at the meals at which he sits. I have found him faithful among the many, who have betrayed me." Such would have been her answer; and she would have said, "having given you this answer, recollect you are treating the princess of Wales with indignity—you are degrading her, and I will represent to your superior officer your conduct." But, what is her royal highness's conduct? She pauses—she hesitates—she feels the indignity to her favourite Bergami; and, therefore, after two or three days she does that which marks the consciousness of guilt—she submits, and abstains from the table of captain Pechell. Not a single observation was made on this by my learned friends—they glide over it as they do over all the facts which make against them. But, I say, that that fact conveys a conviction of that, which subsisted at that time, between her royal highness and Bergami.

My lords; after that, at Augusta she embarks on board the polacre; and your lordships will recollect the disposition of the rooms which was made upon her embarkation, they are spoken to by Paturzo, and Gargiulo. My lords, an alteration was made at Tunis; and that alteration is attempted to be accounted for by a doctor being taken on board at Tunis. Now, mark, I pray you, that circumstance. It is argued, though not proved, that protection was the object which her royal highness had in view, in placing Bergami continually so near her apartments. My lords, it seems that at Tunis, he was to be brought still nearer than he had previously been—he had been before, in the cabin outside of the dining-room, but on this occasion he is removed into the dining-room, and his bed placed in such a situation, that on the opening of the door, they might, in certain positions, see each other in bed. But, whether they did or did not, the bed was so near her royal highness's room, that there was that facility which Dr. Lushington admits did exist of an adulterous intercourse; but still, he says, "Do not draw the inference, that it took place merely from the circumstance of the disposition of the rooms." But, my lords, his bed is placed in such a situation, that he can with ease gain access to her room, through the door of her cabin; and, after that arrangement was made, one of the doors of the dining-cabin was blocked up, so as to leave only one entrance to that cabin, and thereby the more easily to exclude persons after Bergami and her royal highness had retired to rest. What conclusion can any man draw from these facts? Why, I say but one. Bergami is the person upon all these occasions who is thus placed; and facilities are thus afforded to him, and to him alone. I say, therefore, that a man must wilfully shut his eyes to the light, who can doubt about the conclusion to which all this conduct leads. Where, my lords, do they sleep at Tunis? And is not the same disposition made at Utica? It was supposed there was a contradiction between Demont and Hownam, in consequence of what Demont had stated. The question was, "Where did you reside at Utica?" and the answer was, "In a small country-house;" and Mr. Hownam proves, that Utica is in ruins, and that they did sleep in a small palace belonging to the son of the bey. She is not asked whose country-house it was, and it is proved it was a palace belonging to the bey. What contradiction is there in that? She was not asked whether it belonged to the bey? She swears, as was the fact, that they did sleep near Utica; and, therefore, there is no contradiction whatever.

My lords; my learned friends say, that nothing has been proved, with respect to Zavouan. My lords, there has been something proved, and I will call your attention to it. It is in page 289. "Did you see the bed of her royal highness in the morning? Yes.—Did it appear as if one person only had slept in it or more than one? It seemed much in disorder. I cannot say that two persons had slept in the bed, but it rather appeared to me, that two persons had slept in it rather than one."* Why, my lords, that this, therefore, did occur at Zavouan, is proved by Demont; and the only observation my learned friends can make upon it, is this: "Your opening stated some more particulars, than you have proved in evidence, and therefore the whole case is to fall to the ground." Such is the logic, and the argument on the other side! whereas, your lordships are to look to the facts proved, and if you find they satisfactorily lead you to the conclusion, which that statement was intended to lead to, then, laying aside what may have been stated, your lordships are bound to decide on the proof.

My lords; at Ephesus, a transaction is spoken to by Majoochi on which my learned friends think they have established a material contradiction to him. My lords, Majoochi states, that a dinner was prepared in the coffee-house, and her royal highness and Bergami ordered him to carry it within this place, surrounded by a wall, and that they dined there alone —the princess sitting on her travelling-bed, and Bergami on the ground at her feet. Majoochi waited on them, and after dinner they remained there.* Mr. Hownam is called to contradict this part of the statement. He is asked, "Where her royal highness dined?" and he says, "It was in the church-yard, next the coffee-house, where we had slept the night before, under the portico of an old mosque."—"Did she dine alone upon that occasion?" "I am convinced we all dined together. I recollect most perfectly."—"How did you contrive to sit upon that occasion?" "We sat on the ground; her royal highness sat on her travelling-bed." Now, my lords, mark the recollection of Mr. Hownam: "Did any body sit with her?" "I do not remember." Then, my lords, finding that he did not remember that, a plump question was put to him —(we are told leading questions have been confined to this side of the bar)—and having got this *non mi ricordo*, I will show you how it applies—"Are you sure that the rest of the suite were there during the time of dinner?" "I am confident as to having dined myself, and every body else."—"Do you recollect where the countess Oldi sat upon that occasion?" Non mi ricordo—"I cannot recollect the spot where she sat, but I am convinced we all dined together."* I say, my lords, that this is not a contradiction—a man swears positively that the princess and Bergami dined alone in this vestibule; another man, who cannot recollect who dined there, or where the people sat, comes and states his conviction that is all his belief; and upon his cross-examination, when he is asked whether he will swear that that day he dined with her royal highnes? he answers, "I will swear that is the impression on my mind—that I dined with her royal highness." I say therefore, that this is not a positive contradiction—a man who swears to a fact which took place within his own knowledge is not contradicted by another swearing he does not believe it; and your lordships will see that Mr. Hownam forgets every thing but this general conviction. He admits the fact of dining under the tent; but as far as it was intended as a contradiction of Majoochi it fails, because he only swears to his conviction and belief, and not positively to the fact.

My lords; after Ephesus I am not aware that any thing particular occurs in the evidence, until you arrive at Aum, and the land-journey from St. Jean d'Acre to Jerusalem. Now, my lords, mark that part of the case, which not only is not contradicted but I think both in argument and in statement, admitted by my learned friends; and if that case be true, as I think I shall satisfy your lordships it is, it strikes my mind as conclusive evidence of the guilt of her royal highness. My lords, what is the case? They travel by night and encamp by day; and her royal highness, after the fatigue of her journey, reposes under a tent which is erected for her, and outside that tent, is another tent, between which, and the tent in which she reposed, two persons are constantly placed to protect her. We have heard a great deal of the ne-

* See Vol. 2, p. 1142.
† See Vol. 2, p. 820.

* See p. 500 of the present Volume.

cessity of her having male attendants near her, for the purpose of protection; but upon this occasion not satisfied with Majoochi, and Carlini (the nephew of Bergami), who were both sleeping in the outer circle of the tent, Bergami himself reposes constantly under the same tent with her, when she stands in need of no protection, and when, if she did stand in need of it, he could have afforded it, as well as Majoochi and Carlini, in the outer circle. I have heard it said, that she came in much fatigued, that she threw herself on the bed without taking off her clothes, except the outer garments. Good God, my lords, she reposes there all day, and because she is fatigued, no suspicion, no inference, arises whatever from her reposing side by side with Bergami under the same tent, because forsooth, she requires a protector in such a situation! Why, if she were fatigued, would not the countess Oldi or Demont have been the person to have been selected? She wanted no male protector. And yet you hear it argued at this time of day, that there is no harm, no suspicion, from a lady sleeping in the same room with a menial servant, exposed to all the indelicacies which must occur during such a repose! and we are now to argue, and it is gravely argued out of doors, that that upon which your lordships have divorced and degraded female after female is no evidence against a princess, because there is a possibility that no intercourse of an illicit and disgraceful kind took place! My lords, if you listen to this, you must repeal those Divorce bills—you never can divorce persons on such evidence hereafter—it must go forth as your decision, that a woman of rank may sleep, night after night, with a male attendant—and your lordships are to proclaim that this may be done with innocence, with purity, and that hereafter women may sleep, night after night, with their menial servants close to them, because there is no evidence that they were undressed, and because there is evidence of there being another bed in the room! Do my learned friends know—(if not I will inform them)— that it is not the habit of any persons in those countries to undress when they repose? Had they taken the trouble to refer to the travels with which Dr. Holland has enlightened and amused the world, they would have found that this is the constant mode of repose. But the Turkish ladies would say, it is a most extraordinary inference that, though they repose in the same tent in clothes, and with a male in the tent in clothes, no illicit intercourse can take place—I will read a passage from Dr. Holland's Travels, which shows the habits of persons in that part—it is in the first volume, pages 227 and 232:—"Bed-chambers are not to be sought for in Greek or Turkish habitations.—The sofas of their living apartments are the places of nightly repose with the higher classes—the floors with those of inferior rank. Neither men nor women take off more than a small part of their dress." Why, my lords, in that country, where you hear it is not the habit to undress, where sofas and beds of the description that her royal highness had, are the common places of repose—your lordships are gravely asked to infer no guilt, nay, no suspicion, against her royal highness, for having reposed, night after night, in this manner with her favourite Bergami under the tent, because, forsooth, she occupied a travelling-bed, and he a sofa, and because they did not entirely undress, where it is not the habit to undress! It is to go forth to the world that this may be done innocently, and although no cause is assigned for the arrangement, because, my lords, there is the strength of the case against my learned friends, and there they felt the difficulty of combating this part of the case. I say, then, that their case of protection fails them—the countess Oldi might have slept under the tent, Demont might have slept under the tent, Mariette might have slept under the tent, Bergami might have slept in the outer tent, without subjecting her to those indelicacies which must take place where persons repose after a journey, and where they repose for so long a period as they did during that journey to Jerusalem. But, my lords, is the fact so? Why, my lords, what is proved by Demont, and by Majoochi? Majoochi says, the inner tent was closed by Bergami.—On cross-examination, my learned friends get out, that Demont's sister more usually attended her royal highness than Demont—Demont says, that the princess was partly undressed under the tent at Aum; that upon another occasion her sister undressed her. Majoochi states that Bergami was under the tent with her, and Demont says, that she saw some articles of Bergami's dress in her royal highness's room. Why, my lords, is this not capable of con-

tradiction? Is this a fact that my learned friends think so trival in the case, that although they take the trouble to contradict Demont on supposed conversations, although Majoochi is to be cross-examined from time to time as to conversations which he may have had, yet, on the vital points on which innocence or guilt rests, neither Carlini, nor any other person, is called to contradict the fact of her royal highness's sleeping under the tent with Bergami, at a time when no reason can be assigned for it, that would be sufficient to establish a verdict in Westminster Hall? Nay, these circumstances are more than sufficient. Then, I say, you are doing injustice to other parties, if on such evidence you hesitate to draw that conclusion which between other parties you draw. My lords, I say again, that this fact, taken by itself, is enough; but when you add the other circumstances uncontradicted and undisputed in the case, it strikes me that no man, coming to a decision of the case with that impartiality which he ought to possess, can, for a moment, hesitate to decide that that is conclusive and satisfactory proof of adultery. Good God! how is adultery to be proved? Are my learned friends prepared to argue that men and women may sleep in the same room, but unless you prove them in bed no inference is to arise? Is it to go forth to the society of the kingdom, and to families, that such things may be innocently done? If so, there is an end of all female delicacy — there is an end of all those nice feelings which should subsist in their minds—and hereafter no adultery can be substantiated in a court of justice, if these facts are not sufficient to lead to a decisive conviction of the fact.

If that be so, my lords, with respect to the Aum case, what shall we say to the case now substantiated in proof on board the polacre?—that case which my learned friends say is our last prop and stay, in support of this bill—which they have been unable, by any evidence, to shake, or by any observation to destroy. And, my lords, when I come to show your lordships what that case is—how proved—how capable of contradiction and not contradicted—how confirmed by the testimony on the adverse side—if your lordships could for a moment (which I cannot believe you could) entertain a doubt about the Aum case, I say an adulterous intercourse is proved beyond all doubt on board the polacre, after her royal highness's embarkation at Jaffa.

My lords; what are the facts from Jaffa to Capo d'Anza, occupying, Mr. Flinn says, nearer two months than one, from the 18th of July to the 5th September? A tent is erected upon the deck. My lords, a reason is assigned for this, that in consequence of some horses being embarked on board the polacre, the noise they made and the disagreeable smell occasioned by them below, and the heat of the weather, induced her royal highness to repose on deck under a tent. My learned friend, Mr. Denman, says, it does not deserve the name of a tent, that it is only the awning of the ship easily let down, a mere covering thrown round her royal highness, open to the breezes of the heavens, and not to be dignified with the name of tent. But, what says lieut. Flinn, who has been so eulogized—what does he say on the fastening of the tent? He says, it was fastened down to ring-bolts on the deck. Gargiulo and Paturzo both state how the tent was closed at night. It was closed all round at night. Majoochi also states that. My lords, I beg you carefully to peruse the whole of the evidence given by those two persons; it would be tedious in me to recite it at length. Every answer which they give is most important upon the present occasion. Not a shadow of imputation can be cast upon them—no evidence can be given to contradict them—and therefore the only observations to be made are upon the remuneration which they are to receive for coming here as witnesses. My lords, those of your lordships who know any thing of the manner in which foreign witnesses are paid, know perfectly well, that they always demand and generally receive a very large compensation. My lords, I might refer even to the testimony given on the part of her majesty, and to recall what was stated by the last witness from Morje in Switzerland, as to the compensation she required. She had 70*l.* paid, a deposit of a 100*l.* at a banker's, and she stated the expectations she entertained as to the remuneration she was to receive. My lords, this captain and mate were withdrawn from their employment, which was active and profitable at Naples—their ships may be no longer capable of rendering profit till their return; but my learned friend, in order to exaggerate their remuneration, makes out that they are to receive a very large sum per annum, and

by that he jumps to the conclusion, that any man who extorts such a sum must necessarily be perjured in every tittle of his evidence. My lords, that is not so—they are to be paid according to the time they are absent—a large remuneration I will admit. I know that these captains of vessels always require large remunerations, and I could have shown that large remunerations have been frequently demanded and paid to procure testimony here. My lords, are you therefore to believe that those two persons came here deliberately to perjure themselves, in consequence of that remuneration? Try their testimony—if they have perjured themselves, could they not have been contradicted at almost every step of the case. What do they depose to with respect to the state of the tent by day? "Oh," my learned friends say, "by night protection was necessary—a landsman was the best person to assist her royal highness on the deck." Bergami was the person, of all others, to be selected on the occasion, though Hownam had been a sailor, and Flinn slept in his hammock on the helm. But both the captain and mate state not only that the tent was closed by day, but that it was closed by the orders of Schiavini. Where is Schiavini? Here. He has been sent for witnesses—he has assisted lieut. Flinn with extracts in order to enable him to refresh his memory as to the periods at which he performed the voyage—he is at Brandenburgh-house with her majesty; and yet, although this fact is proved by them, Schiavini has not nerve enough to be produced! Because of the terrors of my learned friend's cross-examination, the ladies—the countess Oldi and Mariette, will not expose themselves to the hazard of a slip—but, has he not nerve enough to deny this fact, which speaks volumes, which shows what was passing between them at that time, too disgusting to allude to—that in the face of day, when he was reposing on the bed one day, the princess hanging over him, Schiavini gives them orders to let down the tent, and in his presence that order is obeyed? Are these men perjured? have they come here to give false testimony for the remuneration which they are to receive? The proof is ready at my learned friends hands. They may produce Schiavini—he is still in their service—they knew nothing, I suppose, from which to suspect Schiavini—he has done nothing to excite the suspicions of her majesty—he has not corresponded with the baron Ompteda—he knows nothing of what passed with respect to the supposed picking of locks, to get the secret correspondence of her royal highness—he is the person who, the witnesses say, ordered the tent to be let down by day; and yet, in a case where her majesty's innocence is to be made as clear as the sun at noon-day—where she challenges all inquiry, and promises to produce all the witnesses in her favour, Schiavini, who is at Brandenburgh-house, is not called. And I say his not being called, leaves the captain and the mate uncontradicted, and being uncontradicted in that part, what reason have you to disbelieve the other parts of the testimony? Why did they think it necessary to call count Vassali to contradict the supposed journey to Sinigaglia, and to throw a cloud over the Carlsruhe case. They felt how necessary it was to call Vassali—they had confidence in his nerves—but they dare not produce Schiavini, Carlini, and other persons. By whom was the light given out of the tent at night? By Bergami—and it was given to Majocchi and Carlini. Why is not Carlini produced? They cannot produce him—they know he would establish a fact damning to the reputation of her majesty; namely, that Bergami was with her, and that he was the person by whom the light was excluded from the tent, in order that they might repose in darkness under that covering.

But, my lords, it is said, the hatchway is open—the communication below is open, and therefore there was no mystery in the transaction; and therefore you are to presume innocence, because there was no mystery. I know not by what logic or reasoning you are to arrive at this conclusion. There are periods when a passion of this kind gets the better of all reason—they find it can only be gratified under the tent—it is not convenient to sleep below, Bergami is the only person removed from the dining-room to sleep under the tent; and no person can believe, that, for five weeks together, they could sleep under the tent innocently, because there was no proof that they were undressed. I again refer your lordships to that which must pass, with a man and woman in this situation; and I say, that no woman of delicacy could repose, not a night but an hour, with a man under the same tent, who had not been carrying on that illicit and disgraceful intercourse

which the evidence fixes on this occasion. Are we to have reasons for this? Yes. Lieut. Hownam is asked to it. Questions are put to him, not only by my learned friends, but your lordships; and, my lords, I wish to refer you to the various accounts which he gives, as to the different reasons that induced him to think there was no impropriety in Bergami sleeping under the tent. It is important for you to observe that; because the case is put on that. They say it was necessary for a man to sleep under the tent. Some of your lordships asked, Would not a sailor be better than a landsman, is not he more accustomed to the rolling of the ship? and he says, Schiavini was a landsman; and yet Bergami, who is not shown to have been at sea before, is the person selected, although Schiavini, as a landsman, would have been an improper person to have on that occasion. But, my lords, it is really trifling to see the reasons—there were no suspicions of the crew when he is asked, whether other arrangements might not have been made, "they never occurred to him before"—"undoubtedly there might." Lieutenant Flinn slept on deck every night except one, and therefore he was close at hand to assist her royal highness in case of danger. But, my lords, what would be the conduct of a woman anxious for protection, but not desirous of affording facilities to this illicit intercourse?—Would she not have had countess Oldi with her under the tent? We were threatened by Mr. Williams, that it would be proved that other persons slept occasionally under the tent. Why is not the countess Oldi produced, if she was the person? But if she required protection, why not do that which was done at Aum, have hammocks round the tent to protect her from danger, or the intrusion of the crew? Nothing so easy—but no, that would not answer the purpose. Bergami must sleep under the tent—the travelling bed or the sofa is the place where he is to repose; and because they are about three feet asunder, and because in the morning when they are seen the princess is dressed and Bergami in his Greek robe—all this is to be considered innocent, and you are asked to infer that nothing improper took place, and that for five weeks her royal highness can sleep under the same tent with a man for no other reason than that she preferred his society! Your lordships are asked in the case of a princess, and a menial servant, to believe there was no impropriety, no indecency, no illicit intercourse during that period, and lieutenant Hownam is the witness to prove it! "Oh!" say my learned friends, "you rely on lieut. Hownam's belief on this occasion —if you take his belief, take it with his account of the impression on his mind." My lords, lieut. Hownam's "belief" is not our case; but it is a confirmation of the positive evidence on the part of the bill of Gargiulo, Paturzo, Demont, Mejani, and Birollo, against whom not the slightest imputation has been cast, nor a contradiction attempted to be given. No one has ventured to contradict it, except lieut. Flinn, who attempted it at first, and said, he did not know where Bergami slept, and that he has no belief on the subject. Mr. Flinn having broken down on his cross-examination, and lieut. Hownam having proved the case for the bill, they are tired of the witnesses. They then make a diversion—they call for Restelli, and then you hear no more of the case for five or six days. They were sick of Flinn —they found that he would not stand the cross-examination, and Hownam let out too much. And then neither Schiavini, Carlini, the countess Oldi, Mariette, nor Hieronimus, every one of whom could have spoken to the transaction, are called —they are kept snug at Brandenburgh-house, and your lordships are never to be favoured with the sight of any one of them—and my learned friends find fault with us for not calling witnesses. We have called five witnesses to the fact; they call nobody to contradict it, and then they say the proof is not sufficient. I say if the case is not true, you might contradict it by five witnesses, not one whom you produce. The absence of that contradiction proves the evidence of our witnesses; and, if that case is proved, there is an end of all cavil, all doubt, all hesitation, on the subject; because, whatever other parts of the case are affected, this stands; and if so, it adds the greatest confirmation to the other parts of the case—for, undoubtedly, if adultery was carried on for five weeks under that tent, there is an end of the uncertainty and improbability of its continuing elsewhere; and when you find them in the same habits of friendship (if it can be so called) I say, the polacre case not only establishes her royal highness's guilt there, but it corroborates and strengthens every part of the case against her. Need I at present dwell longer on the scenes on board the polacre.

But there was one fact which my learned friends, with great adroitness and care, kept out of your lordships view. The transactions of St. Bartholomew's day are never mentioned by my learned friends. That day is celebrated throughout the ship in a manner which shows the connection between her royal highness and Bergami. I say it needs no comment. Her royal highness is seen walking on deck, arm in arm with Bergami, the crew are regaled, the ship is illuminated, the cry is, "Long live the Princess! Long live Bartholomew! Long live the Chevalier!" The only one whose birth-day is celebrated---it is celebrated on board ship, and for two years it is kept as a day of festivity and mirth. Her royal highness parades the deck, arm in arm, with him, and yet Mr. Hownam cannot recollect the date of that fact, it was so usual it made no impression upon his memory. Does this fact speak nothing? does it not evince—a degree of friendship I cannot call it—but of connexion between these parties? Can any man doubt that that fact shows most strongly, not only what was the estimation in which this man was held, but the degree of familiarity and intercourse existing between these persons? But this is so immaterial a fact, that it has not been noticed—notwithstanding the industry which every body could not but admire, and the ingenuity, of Mr. Denman, who went through the case—except when he made a jump over what had passed on the voyage to Genoa. Mr. Brougham jumped over the polacre case—which Mr. Williams (who said it was by accident) as well as Dr. Lushington and Mr. Denman came to at onec—they said it was the case of all others which they wished to grapple with—and yet the festivities of St. Bartholomew's day are wholly omitted from the facts on which they comment! My lords, it would be absurd to dwell longer on this. That omission was designed—they knew they could grapple with the fact—they knew it reflected light on the other parts of the case; but their ingenuity was empolyed to keep your lordships minds free from what had passed before, and therefore, then, did they argue, that as no guilt was proved before her royal highness went on board, that case was not sufficient to establish the guilt—but, when you look on all the transactions on board the polacre, if you could doubt about what passed under the tent, you could have no doubt about the other facts spoken to by the other witnesses.

Did her royal highness bathe on board? She did—that is proved by Gargiulo, Paturzo, Majoochi, and Demont. But then it is supposed on that point we have a contradiction to Majoochi, with respect to the bath on board the ship. He states, that on one occasion he carried water for the bath, which was taken in the cabin. Demont confirms Majoochi, even though she is not precise as to the place where it was taken. She speaks to two occasions—she cannot state whether it was in the outer or inner cabin. But then we are to have recourse to measure, and lieut. Flinn is called to show, that in a cabin of ten feet and a half, a bathing tub of six feet could not be placed! I think, my lords, it is hardly necessary for me to comment upon lieut. Flinn's evidence, because, after what took place in your lordships presence, upon the testimony of that unfortunate officer (for so I will call him), I think your lordships will be of opinion, that no reliance whatever can be placed upon the testimony which he gives in support of her majesty's defence.

But, my learned friend, Mr. Denman, says, "What inference is to be drawn from his taking a paper from his pocket, and swearing three different ways as to the hand-writing of that paper—first, that it was his own—afterwards, that it was Pasquali's—and, by one of those accidents that do fall out on these occasions, having a document by me which had been given by Schiavini as a recommendation of one of our witnesses, by comparing that with the paper produced by lieut. Flinn, I had not the least doubt whose the writing was. My learned friend put the question to him, and out came the answer at once, as if a thunder-bolt had struck him, that it was Schiavini's hand-writing. Why, my learned friend, Mr. Denman, forgot the eloquence displayed towards the conclusion of Mr. Brougham's speech. I have no doubt it has not been effaced from your lordships memory—it never will from mine—how beautifully he descanted on the importance of slight contradictions. We were referred even to Holy Writ to prove his theory; and yet, my lords, when it comes to be applied to their own witness, "Oh dear; that is an immaterial circumstance—it is true he has made a mistake, he has sworn it was Pasquali's writing, and then his own;" and though it

comes out by the most accidental circumstance that ever took place in a court of justice, that it is Schiavini's. Then my learned friend's eloquence is forgotten, and they turn round and say, "it was an accidental detection, and from such an accident we are afraid to produce any other evidence before you." My lords, it was one of those detections which has not occurred on the other side. My lords, the fact Mr. Brougham was commenting on, was the answer of Sacchi, as to the tumult at Dover—a fact as immaterial to your lordships inquiry as the paper, and more so; because this was a paper to refresh his memory, but on that occasion Sacchi's evidence was to be destroyed on that which he afterwards explained. But lieut. Flinn's evidence is to be propped up as that of an English sailor, an English lieutenant, whose honour ought to be as dear to him as his life—the arguments are not to be applied to him, but they are to be applied to an Italian because he is an Italian. Let us not be led away by such attempts to delude us from the real state of the case. I say lieut. Flinn on that occasion was asked to that paper over and over again. He could not have a doubt by whom it was written. I say, therefore, whether he wilfully, or by mistake, gave the evidence he did, on either ground you cannot believe that man as a witness in support of her majesty's defence.

But, my lords, answers were extorted from him by some of your lordships, which carried your conviction, not to say of the imperfection of his memory, but that you could not rely on his testimony, when he was examined as to the situation of the binnacle, and the light it threw into the tent when he drew it up to answer questions put to him by her royal highness. Why, my lords, the whole of his evidence on that subject, which is too long for me to recapitulate, shows, that with respect to that fact of the binnacle, as well as with respect to the letters, he was swearing most rashly, and that the light could not, in the position in which he placed it, have reflected into the tent in the manner he stated, and the reason for not having a light on deck was so strong, that it was impossible to be at the different places he was, without seeing the defect in the binnacle, which he could have remedied at little trouble and expense. Did it throw light into the tent? No; for lieut. Hownam when he went up accidentally after the tent was closed, found it dark. And I beg your lordships to recollect, that he stated it was impossible to get out on deck, because the tent came to the combings of the hatchway. I admit that, I believe it to be the fact—because Gargiulo and Paturzo tell you, that after the Queen and Bergami had retired, and the light was put out, the tent was closed by Bergami, and closed, I believe you will think, in such a way as to exclude the observation and intrusion of persons on deck. But lieutenant Hownam felt he ought not to intrude into the tent, after that time—it was not merely because her royal highness was there, but he believed Bergami slept there; and it was because Bergami and her royal highness were there, that he did not intrude. That Bergami did sleep there is sworn by Gargiulo, Paturzo, Majoochi, Demont, and Mejani; and in consequence of a squall, on one occasion the water came over the deck, and her royal highness was seen to be conducted below by Bergami —lieut. Hownam says by Flinn; but he did not go below, because his attendance was necessary on the deck; and therefore I believe the fact to be, that Bergami and her royal highness descended the ladder together. Whether Flinn was with him or not, is immaterial—the fact is proved, and lieutenant Hownam tells you that as one cause of his belief, that on that occasion the princess and Bergami descended the ladder together.

Now, my lords, with respect to the bath—if Demont and Majoochi are believed, the bath was taken by her royal highness below the deck—I care not in which room, that is immaterial; the main fact is, that Bergami was present at the time she took the bath—whether therefore it was in the dining cabin, or in the sleeping cabin, can make no difference. The transaction speaks for itself, because the presence of no man could have been endured by a woman, between whom and herself the last favour had not been enjoyed. But here, Bergami is the favoured person to be present. It is almost impossible to talk of this fact in any terms which ought to be applied to it—I will not do it—it is too indelicate—it is too offensive—it must strike every one, if it is true, it proves the case—if false, the countess Oldi, Mariette and other persons on board might have been called to prove that Bergami was not present when that bathing took place. But no such persons are cal-

led. The fact of bathing is proved by Gargiulo, Paturzo, Majoochi, and Demont. And as to Hownam's opinion and Flinn's belief, you will place no reliance on that. With respect to the former, you have only his opinion. The question therefore, is, whether Majoochi is to be believed, or whether Hownam is? But I say, the material fact is, that the bathing did take place, that Bergami was there at the bathing; and whether it be in the dining or sleeping cabin, is as immaterial as any fact in the case.

My lords; let me call for a moment your lordships attention to the circumstances attending Majoochi's evidence. I have heard, with some surprise, that Majoochi and Demont are persons not to be credited; and the arguments with respect to Majoochi, are those answers which were given by him, that he "did not recollect," or "did not know" particular facts; and from those answers my learned friend, Mr. Brougham, argues, that all his credit is destroyed, and that he is not worthy to be contradicted in the case. I would not venture to apply my learned friend's arguments on the subject to their English witnesses, but I call them in aid to apply them to their testimony; because, if his argument is correct, there is hardly a witness of his who might not be attacked on the same ground. But Majoochi was cross-examined; once he was had up upon information, which so opportunely arises to my learned friend on all occasions as to something which had occurred to him in Gloucestershire. Your lordships will recollect the period, as you will recollect the other periods of diversion in this case—it was after Paturzo and Gargiulo had been examined—the case pressed—they must make a diversion in your lordships minds, and in the minds of the public—they must expose him to another cross-examination to destroy his credit, and damn his testimony. We are amused with his being in Gloucestershire, and with his being in a coach, and with his conversations with this man, that man, and the other a cross-examination which "tortured"—that is the expression applied to my learned friend the solicitor-general. Mr. Brougham's cross-examination truly is no torture at all—his manner, his look, is so delightful, that the witnesses approach your lordships bar with the greatest delight and pleasure to undergo a cross-examination from him! Majoochi looked a little alarmed, as well he might. We heard in the papers, and at the bar, of Flinn's fatigue—that he had undergone a long examination in chief in a hot room, and that it was too much for him. But, Majoochi was under examination in chief a day and a half—he was then cross-examined a day and a half—he was had up a second time as to those conversations—and then, at the conclusion of our case, when the solicitor-general was about to sum up, and when therefore it was necessary again to make a little agreeable diversion in the case, he was cross-examined again, because they had discovered that he had been at Carlton-house; they examined him to Gavazzi and Visetti, who have been ordered to attend this house; letters were produced, and he was supposed to be able to write, when he swore he could only write his name. That will not do—he is called up a fourth time, in the course of the defence, in order that another contradiction might be proved against him by Carrington, who received such a eulogy from Mr. Denman. Their witnesses are of spotless purity, but Majoochi's *non mi ricordos* are at once to destroy his testimony and credit, because my learned friend, by an ingenuity of artifice which did him credit as an advocate, but which had little effect on your lordships minds, extort that answer, *non mi ricordo*, which Omati, that accomplished witness called by them, had had a hint not to use. Where are all the contradictions to Majoochi's evidence? What is become of Mrs. Hughes, and all the family which he was desirous to marry at Gloucester? of Johnson, who was in the stage coach? what has become of Gavazzi, and of Visetti, the lacquey de place, who showed him about London, and pointed out the sights worth seeing? They are summoned, but not one is produced at the bar! Nay, some of them have had an inspection of Majoochi, to identify him: they do not prove he was the man with whom the conversation took place in the stage coach. I say, my learned friends felt the effect of Majoochi's evidence—they knew that, notwithstanding the *non mi ricordos*, though they might amuse the public for a moment, when his testimony came to be examined, it must be tried by this test—whether the facts can be contradicted or not. Finding that, they cross-examine him three or four times—and, my lords, recollect the manner in which my learned friend dismissed him the third time. He said they should not want him again. But

they find Carrington, and then Majoochi is to be called again to be contradicted by that man of veracity, who was "born a gentleman," as Mr. Denman stated. My lords, it is my duty to examine the conduct of witnesses, and the manner in which they depose; and if they can point out from Majoochi's evidence, any such contradictions as exist in the evidence of Carrington, I will resign Majoochi to his fate. But, when I come to show you Carrington's evidence, which I must do, I will prove to you such contradictions, such evasions, as must satisfy you, that you cannot rely on the testimony he gives. What is the fact to which he attempts to depose? Why, that at Ruffinelli, in the servants hall, Majoochi began to talk of baron Ompteda, and on the following day not satisfied with the oration in the kitchen, he makes a speech in the court-yard, while they are preparing the carriage to go to Rome. Trifling circumstances are to be attended to in this case. I do not rely on this as a fact to shew Carrington's evidence is not true; but it is a fact—he says, Ruffinelli is only four miles from Rome, so short a distance, that though it is all up-hill, they were not above three quarters of an hour, or an hour going, and that Ruffinelli is nearer than Frescati. Is that true? What does Carlo Forti say?—that it is twelve miles all up hill, and, as I understood him that Frescati is nearer than Ruffinelli. My lords, this is a fact in the case; and when we are trying evidence, we must look a little at minute facts—much more simple facts have been brought against us, and therefore I trust I shall be excused for doing that.

But he states a conversation with sir John Beresford on the occasion of his being on board ship. What were his answers when examined on that part of the case? My lords, you will find them at page 591: "Were you in any other ship in his majesty's service than the Poictiers?" "No."—"Have you any certificate from sir John Beresford of your service under his command?" "I had it, but I have not it now."—"Do you mean to say you have lost it?" "I have."—"But you are certain you received a certificate?" "I am."—"Were you rated a midshipman on board the Poictiers?" "I was."—"How long?" "I do not know rightly how long—I suppose during the time I was there." Now, my lords, mark the next question; which points to facts which cannot be forgotten.—A man who has served on board a ship, must know the name of the ship—if he has served on board of many, he cannot answer that he has served on board one. "What situation had you served in before you were on board the Poictiers as a midshipman?" "I had been at sea in the merchant service when I was a boy—then I had been on land, and got my livelihood in the best way I could."—"You are to be understood that you were never in his majesty's service before?" "No," he says. Now, these questions must have brought it to his recollection. They are not like the questions of Mr. Brougham to extort a *non mi ricordo*—they are questions to facts which he had some motives to conceal. He did not know the evidence could be procured to show he had spoken to untruths, and therefore, for some reason or other, he disguised the truth. He is asked afterwards, "Are you to be understood to have joined the Poictiers as a midshipman capable of doing your immediate duty, or as a youngster?" "I went with sir John Beresford on board the Poictiers."—"Do you mean that you entered as a youngster to learn your duty, or did you go upon the quarter-deck of that ship, as a positively effective midshipman?" "I did not go upon the quarter-deck for some time, but I understood" now, my lords mark, "I understood I was to be a midshipman."—"Are you positively sure that from the time you joined the Poictiers you were rated midshipman?" "I am not certain whether I was rated at the time or not, I was rated at the time I left it, which I saw upon my ticket."—"You are perfectly clear in your own mind that you left his majesty's service for no other reason than at your own request?" "Nothing else."*

Now, my lords, after that, he is examined again. In page 693, he is reminded of those answers, which I am sure left the impression on your lordships minds that the man had been on board no other ship but the Poictiers that he had been employed by land and in the merchant service before. He says, "I understood the question to apply to my having been with sir John Beresford as midshipman; I had been in other ships before." Now, my lords, how was that possible? he had not been asked about his being a midshipman at the time the first question was

* See p. 404 of the present Volume.

put to him. The question was, "Were you in any other ship in his majesty's service than the Poictiers?" (not as to his employment; but as to the fact) "I understood the question to apply to my having been with sir John Beresford." Do you think this explanation satisfactory? But, if you do, let me carry your lordships attention to what he swears upon that occasion had passed between him and sir John Beresford on board the Poictiers; for in the next page he is asked, "You have stated, in reply to a question in page 588, —'Why did you leave the navy?'— that you did not like the sea, and sir John Beresford got you your discharge?" "Yes."—"You were asked, 'You are perfectly clear in your own mind that you left his majesty's service for no other reason than at your own request?' to which you answered, 'Nothing else'?" "Yes."—"How long had that dislike to the sea been upon you?"—Now, my lords, mark the answer:—"I had often been promised promotion, to get a gunner's warrant; but I never got it during the time I was in the Majestic. When I came into the Poictiers, I was also told that I should have promotion, but I never got it till the latter part, when sir John told me I was to be upon the quarter-deck. I told him I did not wish to be on the quarter-deck, for I had no friends or money to support me on the quarter-deck; that I would wish to leave the service, if it could be got."* Why, my lords, is this a fact which a man can have forgotten? If such a conversation took place could a man be mistaken about the fact? Could such a conversation have taken place? Why, my lords, when I come to call your attention to sir John Beresford's evidence, you will find, so far from that being the fact, that it was because sir W. Gell had desired to take him into his service; and, therefore, as a means of getting him out of the navy, there was a contrivance to get him on the books for a few days as a midshipman on board the Poictiers, and then he was transferred to the Thisbe to get his discharge. But here is a conversation sworn to, on which no man could make a mistake. Fortunately for the ends of justice, sir John Beresford was called at the instance of some noble lord. My lords, I say it is not very usual—I never saw it before—it may be right—to your lordships decision I bend—but I never heard of witnesses being called to support witnesses, merely because there had been an inconsistency in their testimony—I never yet heard of it—I believe it would have been somewhat of a surprise on my learned friends, if I had proposed to call persons to speak to their belief as to the conduct and character——

The Counsel were directed to withdraw.

Earl *Grey* stated, in explanation, that it was his lordship who had moved to have the examination of sir John Beresford, not to support or contradict Carrington, but to ascertain the truth; and in which motion the House had concurred.

The Counsel were again called in, and

Mr. Attorney General proceeded as follows:—

My lords; I was stating that sir John Beresford had been called—undoubtedly with a view to elucidate the truth—but I considered it an unusual thing to call a witness to support the credit of another witness who is supposed to have tripped. I rejoice that he was called. He has disproved what Carrington said. He is asked, "Are their lordships to understand that Carrington never was a midshipman of the Poictiers while you commanded that ship?" "Never."—"Do you recollect any conversation with him as to his being rated as a midshipman, or brought forward in the service as an officer?" "Never."—"Do you recollect his complaining to you that he did not like the sea, and that he wished to get his discharge on that account?" "I will state the proceedings before he said he did not like the sea." He then states the application of sir W. Gell, and the conversation in consequence with Carrington; and when he is asked, "Had he, or had he not been a midshipman for twelve months before he left the service?" "No, he never had been a midshipman before he left the service, to my knowledge."—"Did he ever decline the appointment of midshipman?" "I never offered it to him."—"Do you know whether he did or did not receive midshipman's pay for a twelve month?" "The books can best tell that."—"Did you ever tell Carrington that he was to be on the quarter-deck; and do you recollect his replying, that he did not wish to be on the quarter-deck, for he had no friends or money to support him on the quarter-

* See p. 491, of the present Volume.

deck." "He never told me any such thing."—"You are certain that you never gave him any reason to expect promotion as a midshipman during the time he served as a quarter-master?" "Not while I was in the ship."—"Did Carrington ever state to you any difficulty in point of expense of dressing himself and maintaining himself as a midshipman?"—Sir John says,—"From a sense of his ability as a sailor, he would have assisted him, as he did others in the service till he could pay him again." * My lords, I say, therefore, that sir John Beresford has directly pointedly contradicted this man in his evidence with respect to the conversation on board the ship, and that the man has expressly contradicted himself, when he swears he had never served on board any ship but the Poictiers, and when he stated he had been a midshipman, and had walked the quarter-deck, and the mortification he felt at not being able to support himself as a midshipman.

Then, my lords, is this man to be the person to contradict Majoochi about a conversation with him about baron Ompteda? What did it signify to Majoochi's credit whether he had stated such a conversation or not? He tells you he did not. Carrington is the only person to prove that conversation. The Genoese servant of Mr. Hownam could have confirmed Carrington. That man is not called; and therefore I submit, that if there is to be a balance between Majoochi and Carrington, Majoochi is the person in whose favour it ought to weigh.

Lord Chancellor.—Have you done with that part of the case.

Mr. Attorney General.—Yes, my lord, I was going to another part of the case.

The Counsel were directed to withdraw, and the House adjourned.

HOUSE OF LORDS.

Saturday, October 28.

Mr. Attorney General continued:—

My lords; when I closed my observations last evening, I believe I had brought down the evidence to the end of what has been termed "the long voyage." But, my lords, I had omitted to observe, that in the course of that journey, her royal highness had at Jerusalem conferred upon several of those of her suite, an honour or an order which she herself had there instituted. My lords, this circumstance appears to have excited the ridicule and pleasantry of my learned friends on the other side, and they have considered that circumstance as alleged in the preamble of this bill, as a substantive charge against her majesty. My lords, it is only alleged as one of those circumstances out of which arose that presumption and that conclusion, to which the whole of her conduct leads; and however much my learned friend, Mr. Brougham, might attempt to turn into pleasantry that diploma which was produced by Mr. Hownam, yet I cannot but think your lordships will see, that it affords matter of grave observation and comment my lords, it is not the institution of the order, but it is the singular circumstance, that Bergami, the favoured Bergami, is so distinguished upon that occasion. And, my lords, upon what occasion is it that this is instituted? It is stated, that "her royal highness institutes and creates a new order to recompense the faithful knights who have had the honour of accompanying her on her pilgrimage to the Holy Land." My lords, I wish to make no severe comments or reflections upon her royal highness, except what arise out of the facts of this case; but your lordships will recollect, that it has been proved by Demont (and no witness has attempted to contradict her), that though from the expression of "a pilgrimage to the Holy Land," one should have imagined some religious feelings had entered into the minds of her royal highness, yet, from the period of her leaving Genoa, your lordships will find that in the household of the princess, upon the threshold of being Queen of this country, during the whole of that period, that was omitted in the establishment of her royal highness, which, I say, ought never to be omitted in such an establishment—the performance of divine service, according to the established religion of this country by her, and by her Protestant attendants. Your lordships find that this infatuated passion not only led her to omit that, but to accompany this favoured man to those places of worship which he attended according to the belief and persuasion that he professed; but neglected the performance of that religious service which it was a most imperative duty upon a person in her situation to have kept up in her family.

* See p. 674 of the present Volume.

My lords; what is this order which is established to commemorate this event? The grand mastership of this order is confered upon a person who is, for the first time, dignified by her royal highness by the title of "colonel Bartholomew Pergami," a man who had never been advanced beyond the situation of quarter-master, corresponding with the rank of serjeant in our military establishment "Colonel Bartholomew Pergami, baron of Francina, knight of Malta, and of the Holy Sepulchre of Jerusalem, equerry of her royal highness"—he is to be the grand master, and however ridiculous it may appear, yet this order is to remain in his family "from generation to generation for ever;" and your lordships will find, that this Diploma* is signed by her royal highness and by Bergami, who there assumes to himself that title which is for the first time assigned to him by her royal highness. My lords, I say that that is an important fact. It is one of those facts in this case, which, more than any comment, prove the familiarity which existed between her royal highness and this person. Why was this man to be distinguished above all others upon this pilgrimage? Had he done any thing more than the rest of the suite? Oh yes! he had, my lords—he was her protector under her tent at Aum, and he was her protector on the voyage from Jaffa, from Capo d'Anza! that is the reason why the grand mastership is conferred upon him—that is the only reason—so far as I can see, which can be assigned for the distinction—and that being the reason, I leave the fact to your lordships without further comment.

My lords; I will not stay to comment upon the parting at Terracina. An attempt is made to beat down the evidence of Majoochi upon that occasion; because, forsooth, he has shown that that parting was in the cabin, and because it is shewn, that, upon deck, when the other persons in the suite took leave of her royal highness, a different mode of salutation was observed from that in the cabin.

My lords; after the return from that voyage, her royal highness repaired again to the Villa d'Este; and it is in evidence, that after that return, an alteration was made in the apartments of the Villa d'Este—an alteration again which had no other object than to facilitate the communication between her royal highness's sleeping apartment and that of Bergami; that appears in Majoochi's examination, and in that of Demont; but I call your lordships attention to that fact, on account of the opening of my learned friend, Mr. Williams, on this part of the case. They felt it necessary to account for this alteration; for unless they did so, the necessary conclusion to be drawn, was that which was to be drawn from the other facts of the case; and my learned friend opened to your lordships, that that alteration was in consequence of the former room smoaking, and that to shorten the access to it a new door was opened. My lords, they have had Giarolini, the architect here, but they give no evidence to explain this, though it was felt to be a case requiring explanation, and which they stated they should give. They have failed to give it; and what other inference can you draw from their failure in this case, than that they found that their witness would not come up to the mark? I say, therefore, that the evidence stands as it did. The alteration was made, and it was made for the purpose I have mentioned.

I will not now detain you by further observations upon what passed at the Villa d'Este; but there is one fact which occurred after the return from the long voyage, upon which my learned friends have never ventured to produce a single witness, though it might be contradicted by a host, if not true. I mean what occurred at Barlisina, a place midway between Milan and the Villa d'Este, proved by Galli. He states, that her royal highness coming to the inn at Barlisina, dined there, and that at dinner, in the presence of the company, he saw that they paid compliments to each other; that they took some delicate morsels and offered to each other, and that after the dinner, her royal highness and the baron retired to a room; and after the company had retired, he saw the baron go up and give her a kiss, but he did not enter the room, for they told him immediately to go away.* The answer which Mr. Williams gives to this, is, that a material part of that case is proved to have passed in the presence of the man alone. But those familiarities at the dinner took place in the presence of the whole suite, which at that time was composed, with the exception of Mr. Hownam, entirely of Italians, principally of Bergami's family. My

* See a copy of the Diploma at p. 973.

* See Vol. 2, p. 1259.

lords, that fact is not ventured to be contradicted; the man's character is not ventured to be attacked. Notwithstanding the invectives we have heard—notwithstanding the imputations of perjury which have been so prodigally heaped upon all these witnesses—notwithstanding all the time they had had for inquiry, and all the means which have been afforded to them for procuring witnesses—there is not a person of respectability, from Como, or from Milan, or from the places where they reside, who ventures to say, that those persons are not as credible as any of those who have been produced on the other side. I say, then, my lords, you must consider that case as established; and if it be established, if that familiarity did exist, I may call in aid the candid admission of my learned friend, Mr. Brougham, that one such fact as this proved, shews to demonstration what the result of the case must be. For, my lords, in observing upon what took place on board the polacre, he says, with respect to the evidence of Gargiulo and Paturzo, of the sitting upon the gun, and what took place upon that occasion, that sitting upon a gun with the arms entwined, is such an act as leaves nothing to the imagination except the granting of the last purposes of desire. Then, my lords, I have it from my learned friends admission, that any one of those acts of familiarity cannot exist between persons, except where the granting of the last purposes of desire has been afforded. If, then, I establish only one of those acts of familiarity between these parties, it explains the whole of the case. I say, with respect to that case on board the polacre, it is established by testimony which has not been atttempted to be contradicted. I say, also, that in this case of Barlisina, the fact is established by the evidence of Galli.

My lords; we then come to that part of the evidence which relates to the tour into Germany; and here, setting out with their case at Scharnitz, said my learned friend Mr. Williams, "thank God, is a triumphant case for her majesty—here is a case which will be entirely contradicted." My lords, now let me examine what was the case at Scharnitz? What was the evidence given by Demont? Upon their arrival a difficulty had arisen with respect to the passports. Her royal highness was therefore obliged to remain at Scharnitz during the remainder of the day on which she arrived, the following night, and until the following morning. Demont states to you, that at the inn she retired to the same room in which her royal highness reposed; that at a late hour in the night, Bergami returned, having procured the proper passports at Inspruck; that she was ordered by her majesty to retire from the room; and that Bergami was left there for a considerable time. What was my learned friend, Mr. Brougham's, opening upon this? Because, when I am charged with having opened facts not proved, let us see a little how that observation applies to my learned friends. My lords, I have copied it from the short-hand notes of Mr. Brougham's opening: "I will prove, that the moment the passports were brought, the preparations for the journey commenced—that her majesty set off within an hour and a half; that that time was scarcely sufficient to pack up and prepare for travelling, and that during the whole time the Queen's door was hardly ever shut."* How stands the proof, my lords? They have adduced that of lieut. Hownam and Vassali. It was pledged by Mr. Williams, that they should have three witnesses to contradict this evidence, but there are only two; I can guess that the third was the countess Oldi; but, for some reason or other (upon which a word by-and-by) the countess is not produced. My lords, I do think that there never was so extraordinary a contradiction between two witnesses. Says Hownam, the luggage never was on the carriages unpacked;† there were no preparations to be made in the house; and all the preparations Vassali speaks of, were the preparations made out of doors by clearing the snow. But his account is this—if you believe it—that after his return from Inspruck, he went into her majesty's room—he does not venture to say, that her majesty was not undressed, but he says that her majesty was "covered with shalls orsomething like it"† no answer whether she was dressed or undressed. Demont does not state whether she was wholly undressed or not; she says part of her clothes were taken off. But I ask again, is this case to be determined by such trifles as these? Is it to be stated, that a man may remain in the bed-room of a female for hours without any imputation cast upon them, and that man a ser-

* See p. 199 of the present Volume.
† See p. 528 of the present Volume.
‡ See p. 939 of the present Volume.

vant, because that female was seen on the bed resting, and it is not known whether she was dressed or undressed? With respect to the period which elapsed, was it only for an hour and a half? You saw how lieut. Hownam and Vassali shuffled upon that subject—they did not venture to state at what hour they started; but it appears, that they did not set out till broad day-light in the month of March. And I ask your lordships whether that does not correspond with the account that Demont gives? for it appears, even by Vassali's evidence, that they did not set out till after breakfast. Then I asked him—and your lordships will recollect the answer—whether he was not fatigued with his journey? but he says an officer who has performed campaigns was not to be tired so. He remained up from half past two on his return, till they set out at day-light, and his whole occupation appears to have been in walking from the passage to the princess's room, and back again, without any motive, until the moment that they actually set out; for then, he says, that he carried her something to eat. Upon examination by your lordships that turned out to be the breakfast between five and six o'clock; therefore it did not occur till three or four hours after he returned. Then for what other purpose did he go? he gives this answer: "A person is not easy—he is always in movement when he is obliged to wait upon a personage of that quality; a person is in eternal movement."* My lords, I say this is a most singular reason; and if this is a triumphant contradiction of Demont, I must confess I know not where the triumph is; for it appears to me, that in substance both Vassali and Hownam have confirmed the account she gave.

So much, my lords, as to the case at Scharnitz. I now come to a more important case what occurred at Carlsruhe, and I beg your lordships to examine it carefully, to see whether my observations upon it are well warranted by the evidence; and if they are, I think that case stands as firm now that the case for the defence is closed, as it did at the time when the case for the bill was ended. My lords, what occurred at Carlsruhe? Those remarkable occurrences at Carlsruhe are proved by Barbara Kress: she proves, that upon one evening which she does not precisely fix, she went to carry water to the bed-room of Bergami. Your lordships recollect the situation of the bed-rooms at Carlsruhe—Bergami's bed-room was No. 12 with a communication to No. 10, through the dining-room, which was No. 11, both the bed-rooms opening into that dining-room; so that at night, or by day the communication between the two rooms was perfectly open. Is that true, or is it not? Throughout the whole of this case, I am not aware of a single instance, or not more than one, as to which an attempt has been made to deny the disposition of the rooms, although it was opened at every place which her royal highness and Bergami visited; and therefore your lordships are bound to believe that the disposition of the rooms at Carlsruhe is that which has been stated. Undoubtedly that was important. But though you have had Vassali and Hownam called, there is no question put to them upon that subject. My lords, what is the account given by this witness? She states that a broad bed was put into No. 12, before the arrival of the princess; that upon one evening between seven and eight o'clock, she had occasion to carry water to the room, No. 12. She does not remember where the princess and Bergami had dined on that day. Upon her carrying the water into the room, No. 12, she saw Bergami and the princess; Bergami was in bed, and the princess sitting on the bed.

Mr. *Denman*.—She had sat upon the bed.

Mr. Attorney General.—I was going to observe upon that. It appears that the princess was sitting upon the bed at the time she entered: "I saw she had jumped up"—it is obvious that that must mean, that she jumped up in consequence of the surprise occasioned by the entrance of the chambermaid. "Could you see whether Pergami had his clothes on or off?" "I could not see that; but I had seen as much in the moment I entered as that the arm was white; I had seen that Pergami had his arm round the neck of the princess; and when I entered, the princess let the arm fall."* The princess then jumped up; the female, astonished herself to witness such a scene, immediately retired.

Now, my lords, as to this part of the case, how is it attempted to be met by evidence? It is attempted to be met in this

* See p. 945 of the present Volume.

* See Vol. 2, p. 970.

way—by accounting, if possible, for every minute during the time her royal highness remained at Carlsruhe—that is the attempt made, by way of contradiction, and to show that the account given by Barbara Kress cannot be true. What says Mr. Hownam? He is asked "whether her royal highness did not pass the greater part of her time at court, or in retirement, whilst she was there?" "Almost always at court, or in the family of the grand duke. Her royal highness usually dined at the court, or at the margravine's the grand-duke's mother, and she usually supped out." He is asked, "whether there were any parties assembled on those occasions to meet her royal highness?" "Always, except the first day's dinner at the margravine's."* That is the evidence on the part of Mr. Hownam in his examination in chief. Some questions were afterwards put by some of your lordships—"You have said that at Carlsruhe the princess dined with the grand duke, did you dine in company with her on that occasion?" "I did."—"At what o'clock at that court is the dinner?" "I positively cannot recollect that."—"About what hour?" "I do not recollect the hour sufficiently to be able to mark it; evening parties lasted late in the night, probably twelve o'clock."—"Can you say whether the princess had time to return home between dinner and supper?" "I should imagine yes."—"Did she, on any one of those days, return home between the dinner and the supper?" "I do not recollect that."†

Then, my lords, with respect to lieut. Hownam, there is no contradiction at all. All he states is, a general recollection that they dined on every day but one, with the margravine; that her royal highness usually dined out; but he will not undertake to say, that there was not ample time for her royal highness to return between the dinner and the supper, and we know there was by Vassali's evidence. But so far from accounting for the time her royal highness was there, he leaves it quite a blank, as your lordships would expect a person should do, called to speak to a period of six days.

To fill up that blank, they call Vassali. My lords, observe, in his examination in chief he limits the precise day on which they arrived at Carlsruhe, the 25th of March. Observe the manner in which this is proved by him, upon the examination in chief, and contrast it afterwards with his memory on other transactions; for at Carlsruhe, he knows precisely the day of their arrival; he knows precisely what took place on every day they were there, every minute he will attempt to account for—and yet, on the cross-examination by myself, you will find his memory so defective, that he cannot point out by it what they did at Munich or at Nuremburg [The Attorney General here read the examination of Vassali, which will be found at p. 938]. Why, my lords, I say, I cannot help entertaining great suspicion, that he had been seeing the evidence of Barbara Kress upon this subject, by some means or other—his memory was to be refreshed as to Carlsruhe, beyond that with respect to any other part of the journey; for, now let me call your lordships attention to his cross-examination, at page 942, and the following pages [The Attorney General here read the cross-examination of Vassali, which will be found at p. 943]. Then, when he comes to Carlsruhe, he is as precise as ever, from the 25th to the 30th, and not only the day and the hour, but he states as to every minute, how the time was spent by her royal highness during the whole time she was there. When he is asked, "What makes you remember so precisely where you dined every day when you were at Carlsruhe, and you cannot recollect where you dined when you were at Munich?" He says, "a man may remember one thing, and may not remember another, without being able to assign any cause."

My lords; I recollect how this was argued by my learned friend, Mr. Denman, attending as I did, and as every body did, to his most admirable speech to your lordships. "Oh! nothing so natural," he says, "as that, at Carlsruhe, he should recollect the circumstance of his dining with such high personages as the grand duke and the margravine." These are circumstances fixed for ever in the memory of such a man as Vassali, but, unfortunately, when they dine with the king of Bavaria at Baden, he cannot tell you how often he dined, or how often he did not there, though he can tell you every day at Carlsruhe when he was in company with the margravine and the grand duke, and can account for every minute of the time of her royal highness! In

* See p. 507 of the present Volume.
† See p. 550 of the present Volume.

scrutinizing facts of this kind, your lordships must scrutinize the manner in which the testimony is given—and not only the manner in which the evidence is given as to the facts attempted to be contradicted, but with respect to the other parts of the case deposed to. They attempt to say it was on the second night, and the second night only; for that that was the night when he was ill, and therefore probably in bed. He tells you, that on that evening the Queen remained with the grand duchess. And where did he remain? Why, my lords, most likely, in another part of the apartments with other persons. And he states in the same page, that the inn at Carlsruhe from the grand duke's palace, is not above three minutes riding in a carriage, and that the margravine's palace from the inn, is nearer than that of the grand duke. Then, I ask your lordships, whether you are not satisfied, that it was not only possible, but probable, that her royal highness did return between the time of the dinner, and the evening's amusement. This is not contradicted by this witness; and if you are to rely upon the positive oath of Barbara Kress, that this did take place, whether upon that evening or any other, there is no contradiction upon the evidence of lieut. Hownam, and Vassali. As to Hownam, he does not attempt to account for these remarkable circumstances which stick so fast in the memory of Vassali, and Vassali does not attempt to swear that her royal highness might not return to the inn in that interval. Barbara Kress is not precise as to the hour, as it is not to be expected she should be. You have, therefore, the positive evidence of Kress, met only by the belief of Vassali. Then, I say, you are bound to give credit to Kress, and if you do, then I have a case which, with reference to Mr. Brougham's admission as to the situation of the princess on board the polacre, is decisive. If a woman is seen with a man in bed, with his arm round her neck, there is nothing left to inference as to the act committed; and we have ample evidence as to that fact, in what took place under the tent at Aum, on board the polacre, and elsewhere.

Now, my lords, let us examine Barbara Kress's evidence, to another fact to which my learned friends offer no contradiction, but as to which, contradiction was in their power. I allude to the fact of her finding a cloak in Bergami's bed. "Did you, when you were making up the bed in Bergami's room, discover any thing upon the bed?" "In the bed I have found a cloak."—"Was that a cloak appearing to belong to a female?" "Probably, because behind, it had a kind of hood."—"What did you do with thatcloak?" "I took it out and unfolded it. It was of silk, the colour grey. A servant took it out of my hand. I have seen a cloak the next day upon the princess, but I cannot say that it was the same. It was of the same colour. It was likewise silk; and it had such a hood."* Now, my learned friends cross-examined upon this, and an important cross-examination it was. The drift of it was to show, that she handed this cloak to a servant, who was a jäger, as he is described, a person dressed in green. My learned friends knew the servant; therefore they examine to that: "When you say, 'when they had left it,' do you not mean to represent only, when whoever had slept in it had left it?" "In No. 12, or where do you mean. In No. 12? As much as I know, I know that the gentleman slept there, and I went to make the gentleman's bed."—"Was there or not any body else in the room at the time you made it?" "There was nobody in the room, except a servant in a green coat, who came into the room to assist me in turning the mattress."—"Who was the servant in green?" "I cannot tell you this: there were two of them; I never saw them before, only at the time when the princess was there. I have seen none of them since she left it."—"Was one of them a jäger?" "I do not know this—one of them had a green coat; but whether he was a jäger, I have not questioned him."† My lords, I say, that this is a case, therefore, which my learned friends might have contradicted. Was there not a jäger, a person dressed in green, accompanying her royal highness upon that occasion? They might have produced the servants who were with her, if this fact were not so. Had her royal highness such a cloak as that? does not Madame Oldi, or any one of the servants, know whether she had such a cloak? I say, therefore, with respect to Barbara Kress, she has challenged contradiction by this fact to which she speaks. It is a fact in which they might have con-

* See Vol. 2, p. 972.

† See Vol. 2, p. 1081.

tradicted her better than they have attempted to contradict the other part of the case by the memory of Mr. Vassali. They have not dared to call any person to prove it was not the princess's cloak; and if it was, what is the inference from that circumstance? How came the princess's cloak in Bergami's bed? How came that cloak to be afterwards seen worn by her royal highness? Is there any attempt made to account for this? Then, if this stands uncontradicted upon the testimony of Kress, not only does it stand as an important fact in itself, but it confirms her evidence as to the other part of the case.

My lords; she speaks to another fact, which I will only barely allude to, because it is disgusting to dwell upon it—I mean, the marks upon the bed; and my learned friend, Mr. Denman, ventured to state, that the manner in which she gave her evidence upon that occasion—a manner which, I hope, will never be forgotten—was the blush of conscious guilt, and not that blush which a woman must feel when she is asked before such an assembly as this to circumstances so revolting to female delicacy. If, therefore, you appeal to manner, I confidently state, that never was testimony given in a more clear, decisive manner, than the testimony of that witness—not from a wish of exaggeration, not with a wish to make out a case against her majesty; but the truth was unwillingly extorted from her. I say, the manner in which her evidence was given as to those stains greatly enhances her credit. But, my lords, she is cross-examined as to the places in which she had lived, her family, her having been at a place called the Glass-house—they have had an emissary, it seems, at Carlsruhe, for the purpose of procuring the attendance of the baron d'Ende. Do you believe, my lords, that that agent has not been active? Would he have done his duty if he had not inquired into the character of that servant? If that character could have been impeached, would you not have had the witnesses at your lordships bar? Not a person has been called—not one of the persons she served, not one of the persons at Carlsruhe or the neighbourhood in which she was known—to speak against her character. Though here I have to complain of that press which has been constantly at work reporting speeches supposed to have been made at public meetings, but which I cannot believe to have been made, asserting that this woman had undergone a disgraceful public punishment for some offence against morals. This is the way in which the witnesses are represented and blasted out of your lordships house—they are represented as persons to whom no credit is due; facts are swallowed by the multitude affecting their credit; whereas, before your lordships no attempt is made to blast, or even to impeach by the slightest breath of suspicion, the character of this witness Barbara Kress.

Then, my lords, you have in her a witness whose character is not impeached, who speaks to facts within her own personal knowledge which are not contradicted, and that case alone, if every other were blotted out of your recollection, would, in the minds of any jury of the country, establish the fact of an adulterous intercourse; and, upon that fact alone, your lordships' decision might safely proceed upon this part of the case alleged against her royal highness.

But, my lords, feeling the pressure of that case, how do my learned friends conduct themselves? Your lordships are to have the correspondence between Mr. Leman the clerk of Mr. Vizard and baron d'Ende upon this occasion. All that is to be taken to the advantage of my learned friend which is not evidence in the case. You are to have it believed, that baron d'Ende declines coming here, not for an illness he really suffers, but from a desire to be excused. But what reason has he to decline coming here? He stated that he was anxious to give evidence upon this occasion; that though he had an estate in Hanover he did not care for that; but after that your lordships are to suppose, that he declines coming here, not from an illness really felt, but from a fictitious cause, that he may gratify the wishes of some other persons—who your lordships are left to conjecture—though the government have used all their influence to procure the attendance of that person. My lords, I cannot but gravely suspect that my learned friends have no great wish for the evidence of baron d'Ende. I cannot think that his memory can be better than Vassali's, who attempts to account for every moment of her royal highness's residence at Carlsruhe. But here, my lords, we have another topic—a person of the name of Grimm is introduced, and an attack is made upon him, perfectly unwarranted in the case. Nay, my learned friends ven-

ture so far as to say that M. Grimm ought to have been called to confirm Barbara Kress. Confirm Barbara Kress! how? he was not at the inn during the time that her royal highness was there. He returned afterwards; and because her phrase was the same as that which she used as to the jäger, that he was "running about," my learned friends built upon that a position destructive of the character of this person, not here to defend himself, and which they could draw only from the weakness of their case, that he ought to have been a witness to confirm Barbara Kress, when it is perfectly evident that he could not have been called to support her in any one point.

My lords; have I satisfied you with respect to the evidence of Barbara Kress? Was it necessary for me to make so many observations upon it? I dismiss it with saying, that she has sworn to facts which are within her own knowledge—facts which might have been contradicted if not true, but which not being contradicted I leave to every unprejudiced mind the conclusion to be drawn from testimony so given and not attempted to be disputed.

My lords; at Turin a fact occurred which my learned friends again pass over in silence, proved by a witness unimpeached, uncontradicted—I mean Birollo. My lords, no impeachment is attempted to be made of his character. He swears to facts particularly on board the polacre, in which he might have been contradicted; and if credit is not to be given to such witnesses, I know not any case that can be established by testimony. In page 149* you will see the account he gives of what passed at Turin. "Were you with the princess at Turin?" "I was."—"Do you recollect the princess going to court any day?" "I do."—"Do you recollect whether on that morning you were in Pergami's bed-room." "I do."—"At what time of the morning was it?" "I went to carry a ruff to the dame d'honneur to put round her neck and a pair of gloves."—"Did you observe the state of Pergami's bed, whether it appeared to have been slept in or not?" "At the moment I was coming out from the room of the dame d'honneur I saw Pergami coming out from the room of the princess, open the curtains of his bed, I saw that it was made, and he scolded me. He had a morning gown of silk striped, he had his drawers, his stockings and slippers." He is examined by your lordships at page 153 to these circumstances. "When you said in a former answer Pergami's bed appeared to be made, did you mean, that it appeared as if it had not been slept in?" "I did."—"When Pergami came out of the princess's room and scolded you, can you state what he said?" "'You scoundrel, what are you doing here, who has opened the door?' I said I had found it open, and he said, 'Go away.'"* My lords, there are facts deposed to by this man to which a contradiction might have been given. But no person is called to contradict him—his evidence therefore remains unimpeached, his character unattacked.

My lords; in the course of this journey, we come to Trieste; and here my learned friends think they have a great triumph. Cuchi swears that they were there several days, and that he observed what passed in the rooms, which he describes. There was a strict cross-examination by my learned friend, Mr. Williams, with that acuteness which distinguishes him, and a strict cross-examination by your lordships. And now they do not attempt to controvert the situation of the rooms, and the possibility of his seeing this; but they say, "We will contradict him as to the time her royal highness was there, and by an extraordinary letter which Mr. Hownam produces, who, though it is dated on the 18th of April, does not venture to state that it was not written on the day that they arrived. Vassali says, they were there a day and a half; and to prop up this testimony,—not satisfied with this, which they consider a triumphant case, —my learned friend, Mr. Brougham, with that adroitness which has distinguished him throughout this case—(I will call it by no other name)—holds out a newspaper; he reads it to your lordships before he knows whether it can be received in evidence; and though the professed object of it was to show that at that time she was received at court, or by the governor, the real object of it was in order to read it, to satisfy you that the period during which they were at Trieste, was not longer than that sworn to by Hownam and Vassali. But what need have they of this evidence, if they have such firm reliance on the evidence of Hownam and Vassali. Would it not have been much more satisfactory to your lordships to have given

* See Vol. 2, p. 944.

* See Vol. 2, p. 946.

the evidence of persons acquainted with the place? I cannot doubt that those industrious agents who have been at Venice, have been also at Trieste. I cannot believe that Mr. Vizard has been so inactive as not to have sent to Trieste. I cannot but believe he has had witnesses from Trieste, whom he dare not produce. My lords, would it not be material to contradict the situation of the secret door, and the situation of the apartments? But your lordships have not had a single witness to contradict these facts. They think the time is the material circumstance; whereas the facts he saw are the material circumstances; and therefore I leave it, with the threat held out, which was quite unnecessary, that this person was to be brought to justice. Perhaps, my lords, other persons may stand in the same situation; my learned friends may find that other persons, whether English or Italians—it is not necessary to mention the names—may have tripped in their testimony quite as much as Cuchi, whether it was two days or five that they were there.

My lords; I now come to another part of the case, upon which so much has been said, and which I wish your lordships minutely to examine; I mean the testimony given by Sacchi. And, my lords, I must confess I was a little surprised at the sarcasm of my learned friend, Mr. Brougham, when he came to comment upon that testimony—a sarcasm which he cast upon the counsel upon this side of the bar, though it was perfectly undeserved—as if we had represented that Sacchi was entitled to more credit in consequence of having served in the army of Buonaparté, and having been promoted in that army. He says, "There was a time when we were not quite so liberal with respect to our opinions of such persons. The fact that such men may have bravery enough to make their masters give them a pair of colours, is no proof that they are the most scrupulous of mankind.*" My lords, I say, that some persons, in dealing in general observations, particularly in those of sarcasm, have ultimately hit themselves and their friends as much as they hit their adversaries; for, my lords, singular enough it is, that her royal highness undoubtedly—I cannot suppose from any preference she could entertain for such persons; no, my lords, she was bred and born in a country, and she was united to a prince, whose efforts have been to repress that ambition which threatened the ruin of her native country, and of that country to which she was so firmly allied by her marriage—I cannot therefore suppose, that her royal highness could have had any preference for such persons; but, singular enough, it is not confined to Sacchi—the favoured Bergami also was a soldier of Buonaparté—Vassali, her equerry, was advanced to the order of the Iron Crown, a fact brought out by my learned friends to grace their cause—Olivieri was also a soldier in that army; and I find, that her royal highness (not, of course, from any esteem she could have for the bitterest enemies of this country) thinks it proper, as a British princess, to give a masked ball to one of those enemies, and to personate the Genius of History, in order to crown his bust with laurels, who had been one of the leaders in that conflict in which her dearest relatives had bled, and in which the treasure and blood of the country to which she was then on the threshhold of being Queen, had been spent, to prevent the constitution of the country, as it now exists, from being destroyed! My learned friend did not remember either the circumstances in which her royal highness had placed herself, or the situation of the witnesses he was about to call. Do not, therefore, my lords, let this operate against Sacchi. Let me examine his testimony attentively, and see in what parts he is contradicted, in what parts his credit is impeached—and upon that inquiry, let him stand or fall; but before that inquiry is instituted, let it not be said, that Sacchi is undeserving of credit.

Then, my lords, I come to his evidence, and the material contradiction attempted to be made to him. I mean his explanation as to his change of name upon his first arrival in this country, in consequence of a tumult, which was supposed to be that of Dover, though the very next question showed that he did not mean Dover. For your lordships will see, when I call your attention to that part of the evidence, that the question was followed up by another, which shows that he was not alluding to Dover when he gave that answer. In page 459 this question is put: "You have stated, that when you came first to this country you assumed the name of Milani, what was the reason why you assumed that name?" "I took this name on account of the tumult which had taken place, and of the danger I should have run,

* See p. 169 of the present Volume.

if I had come under my own name, knowing that I should have been known." "You have stated that you have taken another name?"—As your lordships will recollect, he stated that he had first come over under the name of Milani, and he afterwards assumed another name, which, by the permission of your lordships, he did not disclose, because it was thought necessary to his personal safety that it should be so.—"When was it that you assumed the name by which you now go? It was immediately after the affair that happened at Dover."* That shows that the first change of name had no reference to the tumult at Dover. The first name was assumed at Paris in consequence of a communication made to him there, and when my learned friend, Mr. Brougham, argued upon that part of the case, he forgot the answer immediately following, that to which he referred; but he referred to that in answer to your lordships; and you will remember how upon that he descanted. And upon the fact of his having a credit at Lausanne for fifty Napoleons, and whether he had ever said he had a credit for a larger sum, my learned friend was most powerful; and my learned friend says "Suppose any of your lordships were asked as to a fact, and you say 'positively not'—'most certainly not,'—'I know it is not so'—nobody would dare to put the next question to you—at least I know very few of your lordships to whom they would dare to put it—did you ever say so? If put to any one of your lordships, or to any man except in jest, or if the person was beneath your notice, you would disdain to give any answer, for you had answered that question before. If you are a man to be believed on your oath, have you not answered the question whether you ever told any person you had money at your bankers, by saying you know you had no more at your bankers? If you had no more, you never could have said so."† Oh, my lords! here again, if my learned friend would apply that reasoning to his own witnesses, how many of them would be destroyed at once, by that reasoning! How many questions have been put to Mr. Hownam, particularly as to the fact which took place at Bellinzona, when he says the courier first dined with her royal highness—the question was asked him, whether he had not remonstrated with her royal highness against his so dining with her—and instead of answering with that virtuous indignation which is to rise up in the breast of every honourable man—instead of saying "it was not so," or even saying "positively I never said so," all that he will take upon himself to say, is, that he "cannot tell," that he "does not believe," and all sorts of answers except that one which my learned friend says is the only answer, without giving which he is a man of no credit. It would be painful for me to refer to other circumstances of the same sort; but this sort of reasoning may be applied equally to many of their witnesses; but as to Mr. Hownam, the observation may be most forcibly applied, for these are facts which he never could have forgotten to have passed. But my learned friends thought they had so completely and triumphantly destroyed the credit of Sacchi, that not relying upon their observations, they endeavoured to prove facts by which the testimony of Sacchi is said to be destroyed.

My lords; the fact he states is, that he was a courier to her royal highness, and that he went in that character from Rome to Sinigaglia. Your lordships will recollect the facts he alludes to as having taken place upon that occasion. My lords, he is hardly cross-examined upon that subject, except as to the carriage. Some of your lordships did put questions to him, but not a question was put by my learned friends. Then how is he to be contradicted, my lords? If questions had been put to him by my learned friends on cross-examination, we should have seen the drift of the examination, and that they intended to contradict him upon the fact, and should have had an opportunity of confirming him upon that fact, by other witnesses. But the cross-examination passes in silence; and we were therefore shut out from the opportunity. But, my lords, they rested there—and let me here remind your lordships of the opening of my learned friend Mr. Williams—in alluding to the case of Sinigaglia, he said, "we shall negative the indecencies which are sworn to by Sacchi, by the presence of the person who was in the carriage at the time."* I wish that person had been produced, I am sure your lordships must wish it, because, if such a witness had been produced, it

* See Vol. 2, p. 1311.

† See p. 171 of the present Volume.

* See p. 284.

would have been better than the testimony of ten such witnesses as Carlo Forti, unsupported and contradicted as he is by Hownam and Vassali.

Now, my lords, let us see what it is that Carlo Forti swears to upon this subject. His evidence is at page 632. And, my lords, upon this, allow me to avail myself again of the observations (for I am always glad to do so) of my adversaries; for they cannot be supposed to make observations against themselves. They proceed from their observation of mankind—they are applied to the witnesses in support of the bill; and your lordships cannot consider me as unfair in repeating them. I have called your lordships attention to the observation, that a witness is frequently caught tripping upon that which is considered as immaterial at the time, but of which the importance afterwards appears. Now, what does Carlo Forti set out with? "Were you a courier in the service of her royal highness?" I was."—"When did you enter it?" "On her departure from Milan, in 1817."—"In whose service were you immediately before?" "In the service of the viceroy of Italy, as chief cabinet courier."—"You have said, that you entered the princess's service at the time that she was going away from Milan, where was she then going?" "She was going to Rome."—"Did you apply to be taken into her service?" "I did."—"From what motive?"—your lordships will see that this examination was conducted with a view to the witnesses to come behind, for they knew what Vassali was likely to say, "Because at that moment I was out of service."* And then they go on to ask as to his relations at Rome—endeavouring to get out from him that it was not to enter into the service of her royal highness at the time but to visit his relations, and, amongst those relations I ought not to omit or forget, that one was his aunt the duchess of Torlonia, the wife of Torlonia the banker, one of those persons whom her royal highness condescended to receive at the Villa Brandi when she was at Rome.

Now, what does Vassali say to that? He is asked, at p. 939, "How long had Carlo Forti been in the service?" "He began the service at Rome definitively, but provisionally he began from Loretto."—"Can you state the occasion on which Carlo was provisionally hired at Loretto?" "As Forti was acquainted with the city of Rome, being a Roman, he was sent with a dispatch for this object."* My lords, he is examined by your lordships upon this fact, because it had struck you there was a contradiction between him and Carlo Forti. "Did you say that Carlo Forti was first taken into her royal highness's service at Loretto?" "I said that Carlo Forti entered her service at Rome, and that previously he set out from Loretto with a dispatch."—"Did you ever see Carlo Forti in her royal highness's service, before you saw him in her service at Rome?" "From Loretto to Rome provisionally Carlo Forti set out as a private individual, but not as a courier; they did him the favour to take him, in order that he might see his brother at Rome, not as a courier."—"Did Carlo Forti in point of fact accompany her royal highness on her journey from Milan to Loretto? No, not as a courier. He did not enter provisionally into the service, but he was dispatched provisionally, just as another courier would have been."—"Did Carlo Forti go from Loretto to Rome, at the same time with her royal highness, or did he so before?" "Yes, he went with her royal highness from Loretto to Rome."† What is my observation upon this? Were my observations misapplied, or were they not, yesterday, when I commented upon the evidence of Carrington? Were they or were they not just, as applied to that man's testimony, when he stated he had been a midshipman at a time when it is proved he had not been. Carlo Forti swore he was hired at Milan; that he was applied to, to be hired at Milan, and that he went from Milan to Rome in her royal highness's service. What is the evidence of Vassali? not that he went as a courier, but that they did him the favour to take him, in order that he might see his brother at Rome, not as a courier? I say, my lords, here is a positive contradiction of their own evidence—that he is contradicted in a fact as to which his memory could not deceive him, if he came to speak the truth. This I have in the commencement of his evidence. Now let us see what is his evidence as to Sacchi not having travelled as a courier from Rome to Sinigaglia. He is asked, "At what time did they arrive at Sinigaglia?" "At eleven o'clock." Then he gives the account of Sacchi set-

* See p. 436 of the present Volume.

* See p. 940 of the present Volume.

† See p. 954 of the present Volume.

ting out in the caratella. I will not cavil at words. I was attempted to be set right by Mr. Brougham. If I had seen the evidence as I see it now, I would not have submitted to the correction—it is not that he set out in a caratella, but in the caratella belonging to her royal highness, speaking of only one, "he travelled in the caratella before, and I on horseback with the carriages."—"How long before did Sacchi set out upon that journey in the caratella?" "Two hours before, he ordered the horses and paid for them during that journey." Now what is the reason he gives? and though it excited a smile at the time, give me leave to say, I cannot believe Sacchi had been in the cavalry, he had travelled in her royal highness's suite as courier; and Forti states as the reason why he did not travel upon that journey, that two months before, in going from Ancona to Rome, he had met with that accident which sometimes does occur to persons when unused to riding, but not often to those who are. Now, I ask whether that could be the reason why Sacchi did not ride as courier in that journey? I say, that is an account which I think your lordships cannot believe; because it is hardly possible that a man should have laboured under the effects of such an accident for two months, and at the end of those two months it should be inconvenient to him, to resume his occupations, which were to be on horseback, as courier to her royal highness.

Now, my lords, let us see his account of the carriages, and how it tallies with the account given by Mr. Hownam and Vassali. My lords, he states, that he accompanied the carriages on horseback; that the carriage in which her royal highness travelled was a landaulet with curtains (the word in Italian applying either to blinds or to curtains) drawn aside—he says, her royal highness rested the second day at ten in the morning at Nocera—and on the following day at eleven they arrived at Sinigaglia. My lords, he is cross-examined particularly as to the carriages. He says, there were four carriages belonging to her royal highness; that they travelled in that way the whole of the way from Rome to Sinigaglia; that the order of the carriages was her royal highness first, the bastardella was the second, and the caratella the third; so that he there makes three carriages upon that journey—and he says afterwards, that Sacchini set out before in the caratella; but then, as I stated to your lordships, he was considered as having not said the caratella in his examination in chief; but he says it was a caratella he took from stage to stage, and he accounts for the fourth carriage by stating that Louis Bergami travelled from Rome to Sinigaglia in the caratella by himself.* Now, my lords, let us look to the account given by Mr. Hownam and Vassali as to the carriages. Your lordships will recollect, that Mr. Hownam will not venture to swear, that Sacchi did not accompany them as the courier in any part of this journey. He says, the princess travelled in the landaulet. "Are you sure it was in the landaulet?" "I am not certain, but I think it was—she had travelled in that to Rome; in fact, she always travelled in that carriage."—"You travelled by night to avoid the heat of the day?" "Precisely so."—"Who travelled in the carriage with her royal highness?" "Countess Oldi, Pergami, and little Victorine." So that, although he places only three persons in the carriage which followed her royal highness, which was the bastardella; although it was very hot weather, and they travelled in the night to avoid the heat of the day, in this English landaulet, you find her royal highness travelling with two other persons, and, in addition to that, the little Victorine! Why, my lords, I should have thought that there being a vacant place in another carriage—not Bergami (for one cannot expect he should be removed), but the countess Oldi would be: for it cannot be supposed, that her royal highness would conceive, after sleeping five weeks under the same tent with Bergami without the countess Oldi, that it would be indelicate to travel alone with him. Such were the number of persons who travelled in this carriage with her royal highness during this hot weather. My lords, he is asked "Who travelled in the third carriage," and he says, "I think it was William Austin and count Vassali;" and I have it in my recollection, that he travelled in the landau, he or Schiavini, with Demont and her sister. My lords, he now states, and it is a little singular, that he travelled in the English landaulet; and then afterwards, he makes out a fourth carriage. "Who travelled in the fourth?" "I, with a Roman, captain Lancy, that was to Rome." But he says, there was a fourth carriage in the journey from Rome

* See p. 442 of the present Volume.

to Sinigaglia. There is a mistake between him and Carlo Forti somewhere. He makes the count Schiavini, Demont, and her sister, to be in the English landau with him. Your lordships will find by Olivieri's evidence, that Schiavini did not set out from Rome till the following day. I do not care whether it was so or not; I am only showing your lordships how imperfect the recollection of these persons is.—These persons stand up here to contradict Sacchi, as to the countess Oldi being in the carriage, who, it was stated by my learned friends, would be produced, but who has not been produced, for that or any other purpose. Now, what does Vassali say. Confirming the account of its being hot weather, he makes out four carriages accompanying her royal highness. "At what time did you set out from Rome?" "About ten."—Colonel Olivieri swearing it was past midnight! I only point out this circumstance to show the discordance between these witnesses, and how little reliance can be placed upon their accuracy. He is asked, "Who travelled in the first carriage?" "Her royal highness, countess Oldi, Mr. Pergami, and the little Victorine."—"Who travelled in the second?" "I believe Mr. Hownam, Demont, and Brunette." Here, then, according to Vassali's recollection, there were only three persons; according to Hownam, there were four. But it is sworn, that Schiavini did not set out till the next day; and if so, there being a place in that carriage, can it be believed, that her royal highness would travel with so many in her carriage? "Who travelled in the third?" "Mr. William Austin, myself, and a servant on the box."—"Who in the fourth?" "I believe they were servants. If I do not deceive myself, there were Soliman and a Greek, whose name I do not remember." Now, my lords, he has brought to his recollection how long they staid at Fano, and how long they were detained on this journey: and Mr. Hownam will not swear it was as late as five o'clock, but thinks it was in the middle of the day he arrived there. Vassali, upon the same subject, states, that he saw the theatre at Fano, but not with her royal highness. "Did not you desire Forti to apprise your friend at Fano, that you shall be there and see him?" "Yes." He says he does not remember seeing Sacchi—he does not remember the circumstance of any refreshment being given, and then being asked, "What time did you arrive at Sinigaglia?" He says, "I think by day."—"At what time of the day?" "If I am not mistaken, before dinner." But when it is put to him, whether it was before four or five o'clock, he will not swear that it was not in the afternoon—Mr. Hownam saying, that he believed it was not so late as five o'clock—when, from the nature of the question, it was impossible it should be so; for they stopped at Fano for a considerable time, to enable Vassali to see the theatre, and to have a conference with his friend. This being so, when your lordships find, from the variances in these persons testimony, neither of them venturing to swear, that Sacchi did not travel as a courier upon that journey—when the case is left without calling the person who could have proved that fact—that third person in the carriage of her royal highness, who was to negative the indecencies, and who could have proved, if it was so, that Carlo Forti was the courier, and not Sacchi—I think your lordships will feel it impossible to say, that he is so affected as to destroy his credit. He is contradicted by Carlo Forti, but I have shown your lordships how he himself is contradicted by other testimony; and if so, I have shown that it remains on Sacchi's uncontradicted testimony, he having sworn positively to that fact. My lords, Carlo Forti states, that "Soliman sat on the box, and Polidore came a day after, for he remained at Rome;" whereas, according to Vassali, Soliman, and Polidore accompanied them in that journey.

My lords; this being the only contradiction attempted to Sacchi—his letters not being offered in evidence to contradict him—I am sure your lordships expected, that the time would arrive when those letters would be produced to destroy the credit of that man; but neither those letters, nor the third letter written by Demont, nor the supposed challenge written by her for Mr. Hownam, are produced. What, therefore, becomes of the credit of those witnesses, when those letters are not produced, and when they are obliged to rest upon this solitary instance of Sinigaglia to contradict the evidence of Sacchi? There were various other persons on this journey—there were servants—there was the countess Oldi. I lay my finger upon that witness, whom they stated they should produce; but who, for certain reasons, is not produced.

I trust I have said enough to show

your lordships, that the attack upon Sacchi is unsupported, and is unfounded. Then, my lords, what other case have I remaining?—the case of Restelli. Oh, unfortunate case of Restelli for the Queen! They had gone on before the wind, as they thought, with their English witnesses—they called lieut. Flinn—he was blown to atoms on the cross-examination. Hownam they ventured upon, and, stunned as they were by the destruction of Flinn, the admissions made by Hownam operated still more strongly on their minds. My lords, the destruction of Flinn was nothing to the admissions of Hownam. Feeling that, they stop short—they call, indeed, Mr. Grenville Sharpe; and after him, they make a diversion upon this witness Restelli, about whom so much has been said; and therefore, upon that unlucky, that unfortunate case, permit me to say a few words.

My lords; it is supposed that Restelli could have given important evidence for them. Your lordships will recollect his cross-examination. Neither of the persons mentioned by him on cross-examination is produced; but they produce two persons, whose names we had never heard of, as likely to contradict Restelli, as to whom he had never been interrogated. But your lordships most properly let them into the evidence in consequence of his absence. They call Giarolini and Pomi; and upon them they rest this contradiction to Restelli, this case of conspiracy, which was to overwhelm the prosecution. My lords, I have heard that the Queen labours under great disadvantage, in consequence of Restelli not being called. I believe, in my conscience, that she has a very great advantage. The whole of the line of evidence which would have been open to them, if he had been here, is open to them. They call Giarolini and Pomi alone to that part of the case, and there they stop. I say, the absence of Restelli was a most fortunate circumstance for them—their ship was sinking at that time—they durst not proceed in that line of defence—they were proceeding to contradict the facts of the case—they had called several witnesses to depose rather to her royal highness's character than to the facts of the case; except Mr. Craven and sir W. Gell, but lieut. Hownam terrified them from producing other witnesses—his admissions, I believe, formed the reason why they durst not produce any other witness. And then we have the whole story of the supposed conspiracy, and the attack upon the Milan commission. My lords, that is the proper opportunity to introduce it, in consequence of the absence of Restelli; and I must confess, that after the evidence given before your lordships—which evidence I apprehend was rather irregularly referred to by Mr. Denman, because it was a report to your lordships House, and not evidence in the case, but my learned friend has chosen to refer to it, in order to attack the character of Mr. Powell, through whose means that witness was sent away, and through him to attack the Milan commission—I think I may safely appeal to every one of your lordships, whether, however erroneous in judgment, however mistaken, and undoubtedly he was mistaken in so doing, you have the slightest suspicion that the object of Mr. Powell was to remove Restelli from your lordships control? I ask whether the letters of Mr. Powell do not satisfy your lordships of the *bona fides* of Mr. Powell? And though my learned friend, Mr. Denman, says, Restelli was "spirited away," I ask, whether, though erroneously carried into effect, the fact was not, that he was sent under a full expectation that he would be here at the time your proceedings re-commenced, and that illness alone was the reason of his non-return? My lords, if he had been here, would they have called him? See what is done as to Sacchi! Sacchi was called for—your lordships adjourn in consequence of questions put to the learned Judges—and my learned friend, Mr. Brougham, the next day, when Sacchi is ready to be produced at your lordships bar, says, "No, this is not the precise moment—I will rather give up the witness than call Sacchi." It shows the sort of confidence he had in that witness, whom he would not venture to produce after Sacchi; he withdraws him altogether, because Sacchi was forthcoming. I believe my learned friend had some hopes, that he was at Stevenage with Mr. Godfrey, and could not be got at for a day or two—but there was no interruption, the question remained for the decision of the Judges, therefore it remained till the following morning before he could be called. That circumstance with respect to Sacchi is a commentary upon my learned friends conduct as to Restelli. Could they have got out from him any facts which they have not? I believe infinitely more advantage has been de-

rived to her majesty from the removal of Restelli, than could have been by his presence. It has excited a clamour, it has produced a topic on which my learned friends have exercised all their powers; but it has been on account of that absence they have done so. If he had been here, we might have been told, as we were with respect to Sacchi, that they would stop their evidence, and go no farther.

And here, my lords, I may perhaps be allowed to say one word as to the conduct of the Milan commission. Enough has been said to justify such a proceeding. No man can doubt, that before such an investigation as this upon which your lordships have entered, it was the bounden duty of those who instituted such a proceeding to take care that they had ample means of proof; and no persons could be selected of higher character than those who were selected upon that occasion. If Mr. Cooke has not been in the habit of attending courts of law, and sifting evidence, every man knows his experience in the court in which he practises, his experience as a commissioner of bankrupt, where he has had ample means of detecting falsehood and eliciting truth, and his experience as a man to whom, and to none more than to him—are referred those litigations which must otherwise go on in courts of justice. I say, from his character, from his experience, from his legal knowledge, from his reputation, no better man could have been fixed upon to be at the head of such a proceeding. Of colonel Browne I know nothing personally, but from reputation I believe him a man equally fit for the situation he filled. With respect to Mr. Powell, what is the imputation my learned friend cast upon him? that he having been a commissioner at Milan, is called upon to assist those whose assistance I have upon the present occasion. But, my lords, is that a reason why he should not be employed? Is not that the very reason why he should? Does not Mr. Vizard examine the witnesses before he produces them at your lordships bar? It is trifling to make such observations as have been made to affect Mr. Powell's character. That character stands as fair before you as that of any man whatever. He has acted certainly without due care in permitting Restelli to leave the country; but I cannot help thinking, that my learned friend introduced without sufficient ground, those topics which he did, to excite your passions but not to guide your judgment in the conclusion to which you are to come. My lords, with respect to Restelli, he is open to the observations to which others are open. He is interrogated, on cross-examination, as to the reason of his leaving her royal highness's service; and as to his having a certain conversation with Vassali, he says he never had such a conversation, and that he always stated the real cause of his leaving her service. Vassali is produced; but not a single question is asked as to this supposed conversation with Restelli. Therefore I have a right to state, that Vassali cannot contradict him upon the subject.

My lords; there are one or two cases in which contradictions are supposed to be made, and which, if I passed over, I should be supposed not to be able to meet them. Raggazoni deposes to the gross conduct on the part of her royal highness and Bergami in the grotto at the Villa d'Este. My lords, in examining into this case, your lordships must attend a little to the manner in which that man deposed as to that fact; for I believe upon his cross-examination, not a single question was addressed to him upon the facts to which he deposed. My lords, he states that he was at work in a room in the grotto where he was making a cornice. "Was there a room adjoining to that?" "Behind there was."—"While you were at work did you hear any body in that adjoining room?" "Yes, I heard somebody enter." He says he went behind a pilaster to look what they were doing; and when he saw them coming towards him, he mounted on his scaffold, and worked at his cornice. Now, my lords, attend to the next answer, "Are you to be understood that those two figures were in the room next to that in which you were at work?" "They were behind the room where I was at work, by ten or twelve yards."* Now, my lords, observe the fact—that being at work on a cornice in the room, at the distance of ten or twelve yards, he went down from his scaffold, he approached the pilaster, and he witnessed that scene. Now, my lords, he is to be contradicted upon that by Santino Gugiari, and Giarolini, and he is to be contradicted by a plan; and though these witnesses are brought from Milan and the Villa d'Este to satisfy your lordships upon those facts, though plans had

* See Vol. 2, p. 1093.

been taken by Ratti, although they knew how necessary it was to bring an accurate plan of this grotto to your lordships, no plan is brought; but, the day before he is examined, he draws a rough plan, from which a magnificent print is exhibited to your lordships, and this plan is produced as a plan by which your judgment is to be guided upon this occasion.* My lords, did they come to contradict the fact or not? If they did, why did not they make a plan upon the spot, to satisfy you of the accuracy of the situation of this room. Now, my lords, do they agree as to the situation of this room? One of them states, that the grotto is the whole length of this room; and if your lordships will refer to the plan, and see the distance from the room where the Adam and Eve were, to that in which he was at work, you will find it was about ten or twelve yards. The Adam and Eve were there, that is admitted—they had the leaves with wires before them, that is proved, then. Gugiari says, there were "six rooms in the grotto, comprising the round rooms and the square rooms."—"Were they all in the same story?" Then he describes how they communicated with each other—"The two rooms communicated together; the first room was the rotunda, in which there were the statues; on mounting the steps came the second room, where Artemisia was; after the second room, on the same level, there was another room, a gothic room; there is a passage, and then one step on the right, after two or three steps there is a rotunda; after this rotunda, on the same level, there is a second rotunda, larger, where a cornice was made; after that rotunda, comes a half-square room.† He says, he saw an architect of the name of Ratti, employed in taking plans at the Villa d'Este, about three or four months ago. So that Ratti has been employed in taking plans of those places, which your lordships are not favoured with, for the best of all possible reasons—that the plans, if produced, would corroborate the evidence which has been given by our witnesses. Then Giarolini is asked, "Was there any cornice-work done in the room where the statues of Adam and Eve were?" "No, nothing at all."—"Was there any cornice-work done in any other part of the grotto?" "At the top, where there was an octangular room, there was another room which I had built myself, and they worked in no other room but that."—"Were they at work upon the cornice in that room?" "Upon the cornice."—"Had they scaffolding up for the purpose?"—"They had to reach the ceiling?"—"Has there been any scaffolding put up in any other room, or part of the grotto but that?" "In no other but these two rooms."—"Did the square room join to the octangular room?" "Yes."—"Was the square room, or the octangular room, nearer to the statues?" "The octangular room?" Then he says, "In no way could you see those statues." And then, "Do you mean the passage from the square and octangular rooms towards the room in which the statues stood?" "First coming from the octangular room, there comes another room, and then another passage, and then another room where the statues were."* So that he makes between the octangular room, and the room in which the statues were, only one room; whereas Guggiari makes six. Therefore, without an accurate plan, how loosely do these persons pretend to describe those places. And then your lordships are to be induced to believe, that Raggazoni was speaking falsely, he not being cross-examined upon these matters. My lords, you cannot say there is contradiction—at most there is some confusion introduced into the case; but having a witness who swears positively to the fact, whose character is not impeached, and there being only a witness to swear that it could not take place, I say, consistently with his evidence, it could have taken place, he might have gone to a certain distance from the room in which he was working and have seen it.

My lords there are two circumstances also which are, in some measure, attempted to be contradicted—I mean the evidence of Giuseppe Guggiari as to the kissing in the boat, and the bathing in the Brescia, which I will just touch upon. They endeavour to contradict this; they call a man of the name of Lago Maggiore, who gave a most extraordinary evidence. He swears, that her royalhighness was always accompanied by gentlemen; that Tamasia or Mocatti always accompanied her, though it turned out that they lived at Como, and, therefore, it was inconvenient to them to accompany her, inasmuch as they would have to return in the middle of the night. And then he retracted that fact, but your lordships will recollect what

* See the Plan at p. 365.

† See p. 566 of the present Volume.

* See p. 572 of the present Volume.

Guggiari says, that persons looking that way, might have seen it; and all the contradiction they have given is by this man, that he was present, and did not see that which the other witness states to have seen take place.—My lords, with respect to the Brescia, the man did not state that the bathing took place in the Brescia itself—there was some confusion in his testimony at first; but they were in the water behind a bank where persons occasionally bathed. Lieut. Hownam is asked as to the Brescia, but not a question is put to him as to this place behind the bank where this is sworn to have taken place.

My lords; these are the contradictions. But what is there that they do not attempt to contradict? There are one or two facts, I mean the Mahomet scene and the balls at the Barona. Now, with respect to Mahomet, that indecent and disgusting exhibition, if it took place, let me call your attention to the manner in which this is proved. It is spoken to by Majoochi, by Birollo, and by Oggioni. Now, my lords, they swear to that which I can only characterize as one of the most indecent exhibitions I have ever heard of. This is attempted to be accounted for by lieut. Hownam, who says, that this is not a Moorish dance, but a sort of dance in ridicule of the doctor. He says he has seen the same dance on shore, and that upon one occasion he was present with the princess. Vassali says, that he also had seen the dance of Mahomet. But, my lords, what signifies the dancing of Mahomet at other times, and on other occasions! My learned friends felt this case so much—although I have been so much attacked for opening it—they knew that it proved to demonstration the whole guilt of her royal highness—they felt it so severely, that not relying on Hownam and Vassali, they had recourse to the most extraordinary evidence that ever was produced to negative a fact of this sort. They called Mr. Granville Sharpe to prove a dance at Calcutta, which dance at Calcutta was not indecent, *ergo*, the dance at the Villa d'Este was not indecent at all. My lords, they might as well have called two persons to prove that they danced a minuet. Sir W. Gell, whose knowledge of the customs of other nations is so profound, says, and so does lieut. Hownam, catching his words, that it is not more indecent than the Spanish bolero. It may or may not be indecent. I have read that it is, on some occasions, so indecent, that a female cannot witness it. I have the authority of Mr. Swinburne, that the bolero dance in Spain which he has witnessed, is so indecent in the attitudes of the person who performs it, that no woman of delicacy could witness such a dance. Then, my lords, what signifies what the Spanish bolero is, when females are present? What signifies what the dances at Calcutta are? We are inquiring as to the dances of this man, who, it is stated by Dr. Lushington, is to be engaged at Drury-lane theatre—a very pretty anecdote to amuse your lordships from the tedium of a dry speech or detail of evidence! But it stands upon the evidence of Birollo, Oggioni, and of Majoochi, that that dance was performed in the presence of her royal highness.

My lords; as to the balls at the Barona, is there any contradiction upon them? I say they are confirmed by the testimony given by my learned friends. I say they were balls given by her royal highness—and let me ask you why they were given to persons of the lowest description in the neighbourhood of the house where her royal highness was staying. "Oh!" says my learned friend, Mr. Denman, "this was from the affability and condescension of her royal highness, anxious to give pleasure to those about her—it is no more than is done by many ladies of high rank in the country, joining in entertainments with the persons in their village. But, my lords, they are not given at her royal highness's house, but at the seat of the favoured Bergami! Her royal highness is not the hostess, but she joins in those festivities in honour of her favoured Bergami! they are not given in the neighbourhood of her own residence, but they are given to the neighbours of Bergami. My learned friend could not turn to the passages—I will turn to them for him—in which the witness speaks of the flower of gentlefolks, who attended upon that occasion. The "flower of gentlefolks" is the daughter of the landlady of the St. Christopher! If these festivities were not intended for the gentlefolks of the neighbourhood, there is one person who, one should have thought, would have been present, closely connected with Bergami; but that person appears to be the only one who is never permitted to join in the festivities of the Barona—the wife of Bergami is not permitted to join in the festivities, or to share the fortunes of her husband. She is the only person not

introduced; she is to run away the moment her royal mistress sets foot in the Villa Bergami, the seat of her husband, her own house, from which she is to be excluded as long as royalty inhabits it? I say, the Barona balls stand confirmed by the evidence given on the other side. I am stated to have exaggerated those balls, when I opened them to your lordships as scenes of profligacy. My lords, recollect the conversation which took place between her royal highness and Sacchi, Bergami being present! It is proved that persons were seen retiring from the room. I could not inquire for what purpose—but this is established, that the princess of Wales, since Queen of this country, did join in these revels, which were attended by the peasantry, and not one lady has been proved to be present, except, I think, the wives of professor Mocatti and Tamasia and the wife of Cavaletti—not even the wife of Vassali, living at Milan! But, oh! he gives a reason for that—she had not been introduced. She, however, does not attend these festivities; and with respect to the Barona balls, I call your attention to one extraordinary answer given by Pomi to a question put to him. I asked as to a particular female, and he, thinking what the question meant, says, "Oh, she is not a prostitute." That answer comes out of his mouth before it is suggested by me. I asked, "What is the name of the landlady of the St. Christopher?" "Rosina."—"Has she not been at those balls?" Now, see his answer; because it shows what was lurking in that man's mind, and that the question was found to pinch severely, "Yes, she came: but because she had been brought by those other girls; but she is a respectable woman, she is not a prostitute!"* My lords, I say that answer is confirmation strong of the general character of the persons who attended at those balls. My lords, I dismiss this scene: I now proceed to other parts.

Mr. *Denman*.—Will you point out the page in which it is said, that the Villa then belonged to Bergami?

Mr. Attorney General.—Is there any evidence that it ever belonged to her royal highness? Pomi says, it belonged to Bergami, and was then mortgaged, and then returned to him. Is it suggested that it was ever her's? But, my lords, I care not—it was under his name—he appears to have the property in that place, and, therefore, I submit, that my observations as to the Barona, remain untouched. Whilst I am upon this subject, let me not forget the theatrical exhibitions at the Villa d'Este, which I think it was degrading to her royal highness to join in. Mr. Hownam has a most convenient memory upon that subject. He cannot remember the characters in which she appeared. He recollects that Louis Pergami performed the part of Harlequin, but he cannot recollect whether she appeared as Columbine. He does recollect that she performed the part of an Automaton, and that appears to be the character of a lady who could be "wound up to any thing." My lords, is this the conduct of a person in the rank and situation of her royal highness? But it is said, be it degrading conduct, be it improper, it does not argue the guilt imputed to her. My lords, I say it does, Bergami acts upon that occasion, and she acts, and this is proved by Demont, and not contradicted by others, that she acted the part of Columbine. My learned friends attempted to make it out a different character from that in this country—that may be, but I believe the Italian Harlequin is the lover, and the Columbine is the person beloved, and in that character she thinks fit to entertain her visitors at the Villa d'Este. There are other other facts, but I should tire your lordships by alluding to them. Do you recollect the fact sworn to by Demont of the change of the ear-rings—the change of the cap, for one made in imitation of that worn by Bergami—the amusement in the chair in the garden at the Villa d'Este, proved by so many witnesses? I will enumerate the witnesses, whose evidence is not impeached, to show how many of them remain untouched as to familiarities of the grossest and most indecent nature—there is, first of all, Birollo, against whom there is no imputation and no contradiction; Bianchi, upon whose evidence, as to what passed at Venice, I have commented; Majoochi, who speaks to the familiarities and to the padoranello; Lucini, to the same effect; Galdini, upon which we had an amusing observation by Dr. Lushington. He states, he will say what happened in an Italian moment. The learned doctor comments, with great amusement, upon what must have taken place in this extraordinary short time. I think I can match him, if he likes to have a parallel, by an English witness. I can call sir W. Gell to my aid, who in a

* See p. 693 of the present Volume.

flash of lightning, sees not only the dress, but the under-dress of her royal highness, though it appeared only as the door was closed; and in opposition to the Italian moment, I will set off the English flash of lightning. Then there is Finetti, who speaks to several facts of the most indecent nature—he proves that which must be admitted to be proved almost till your lordships were tired; for instance, walking arm in arm. I cannot but recollect, in the progress of this inquiry, that at first your lordships were struck when any proof was given of her royal highness having walked arm in arm with Bergami; but as we advanced, we thought nothing of it—it sunk into insignificance it had been proved so often, and other facts were heaped so upon it. So with respect to the cause; until my lord Guildford had confirmed that, it was thought a monstrous libel upon her royal highness, but it turns out there was nothing in that. But Finetti saw him coming from the side of the house in which the princess's room was towards his own in a morning-gown. He also saw the princess attending Bergami when ill at Ruffinelli, and he saw them embrace twice. Brusa, confirms Raggazoni as to seeing her royal highness in the garden at the Villa d'Este, on St. Bartholomew's day, and he proves their caressing. Rancatti, proves that he saw the princess and Bergami walking arm in arm as man and wife, and he proves kissing at the Villa Brandi. Dell' Orto, proves that the Queen was sitting with Bergami in the garden alone, he kissing her, with his arm round her neck, and here is no cross-examination of him whatever.

My lords; I believe I have enumerated now the witnesses against whom no contradiction has been offered, and who proved those acts of familiarity which I have enumerated to your lordships. I have now gone through the case as it was proved on the part of the bill, and, as I have endeavoured to show your lordships, supported by the examination of her royal highness's witnesses. Let me implore your attention for a few minutes, whilst I call it to the evidence examined on the part of her royal highness a little in detail. My lords, what is the course which has been taken by my learned friends on the other side, they having begun by calling before you certain witnesses, merely to grace the cause, and to have the credit of having produced them?

Lord Chancellor.—Would you wish for any interval?

Mr. Attorney General—No, my lords, I trust I shall finish within a reasonable time. The first witness called to grace the cause, was Mr. St. Leger. He proves only that he was chamberlain, and retired from her royal highness at Brunswick. Upon the evidence of lord Guildford, and lady Charlotte Lindsay, I have already made my comment. What is it they are to prove? They are to support the character of her royal highness, lady Charlotte to speak to four and twenty days, lord Guildford to dining with her at Naples, at Leghorn, and at the Villa d'Este. They are called to give a species of evidence to character. Lord Glenbervie to his dining with her at Genoa and seeing nothing improper. Lord Llandaff is called to prove the dining at Naples, and he certainly does prove an extraordinary fact, that he did distinguish Bergami from the other servants at Naples, and he afterwards dined with her royal highness at Rome. But he is called to endeavour to prove what lawyers call "the custom of the country," with respect to gentlemen visiting ladies in their bed-rooms; but my learned friend finding he could not prove "the custom of the country," his lordship was requested to prove what he himself had done in Italy. Your lordships recollect it excited rather a smile. His answer was, that he had seen many ladies in bed in a morning; and this is to be good evidence to prove that there is no indecency in having a man in a lady's bed-room at night. My lord Llandaff is not questioned as to his practice upon that subject, but he is to prove, that he, a nobleman on terms of equality with those ladies, visited ladies when in bed in the presence of other persons. Is that to be an excuse for a man-servant being present during the whole night in the bed-room of his mistress, and while she is attiring? If such is the conclusion to which this evidence is to lead, I think the questions had better not have been put; for your lordships will see how preposterous it is to draw conclusions from such evidence.

After lord Llandaff, Mr. Keppel Craven and sir W. Gell are called; and I cannot help directing your recollection to the evidence given by sir W. Gell, with respect to one fact which he stated. I declare to your lordships, and I believe you were under the same impression, I thought

at the conclusion of his evidence he had been three months an inmate in the residence of her royal highness at the Villa Brandi. In answer to a question, whether he saw anything in the conduct of the princess towards Bergami, in her conduct, manners, conversation, or looks, to induce him to entertain an idea that there was an adulterous intercourse between them, answers, "Upon my honour I never saw the princess speak to Bergami but on matters of business, though I was in the house for three months at once with them:"—which three months your lordships recollect were at the Villa Brandi. And, my lords, he states, "I attended her to the Villa Brandi, where I staid with her all the time she was there, being about three months.*" My lords, I impute nothing to sir W. Gell; but, the impression upon my mind was, that he was staying in the house for three months, and that an argument was to be raised on the other side, that his staying for three months, showed that her royal highness did not care for his being there, though she was attended by her chamberlain Bergami. What was the evidence of Carrington? Sir W. Gell never slept in that house a single night. I asked Carrington, by accident, where he slept, and he says, at his hotel, at a distance of a mile and a half. The testimony of sir W. Gell, as to what he saw at the Villa Brandi, is therefore considerably weakened by the evidence afterwards given by his servant.

My lords; Dr. Holland is then called. He is a witness also to character, and he also is to prove, that during the period he was with her royal highness he saw nothing improper in her conduct. My lords, there is a singular fatality with respect to all these attendants—he is engaged for a year and a half; it is suggested by her royal highness, that this was a good opportunity for his taking a tour into Switzerland—to which he answers, "If your royal highness can spare me to go to Switzerland, I would rather go to England on private affairs;"—and he returns to England; and though the period for his absence is completed, he never returns; he is paid his salary up to a certain period, and there is an end of the connexion.—The same observation applies to Sicard. That old, and tried, and faithful servant, is sent home from Naples on the ground of private affairs, her royal highness requiring his return to England—he expects to be sent for, but he is never recalled again, and only goes back in consequence of the death of his late majesty to communicate to her that event.

Then, my lords, Mr. Mills is called to prove the character of her royal highness, and then come those material witnesses, Mr. Flinn and Mr. Hownam, upon whose testimony I shall make only one observation. Mr. Hownam has stated to your lordships, and he has put his credibility upon that test, that although he saw Bergami dining with her as a courier—her royal highness walking arm in arm with him—those theatrical exhibitions at the Villa d'Este—and the sleeping under the tent—he saw nothing indecorous. He is asked, whether he ever represented to her royal highness the impropriety of this, and entreated her not to admit him at her table? He denies the fact—he cannot recollect the fact—at last he screws himself up to say, he does not believe it—Captain Briggs is called before you—a witness whom my learned friends have ventured to panegyrize and introduce as their own witness, an honourable naval officer whom the breath of suspicion has never touched—he is called before you, and proves that on board the Leviathan, lieut. Hownam told him he had gone upon his knees and entreated her royal highness not to admit Bergami to her table. My lords, that declaration of lieut. Hownam is either true or false: if it be true, it speaks the sense he entertained, at the time, of the conduct of her royal highness; if it be not true, and he did not see it, I say he felt at the moment he was talking to captain Briggs, the degradation to which her majesty had subjected herself, by admitting a menial servant to her table—he felt that he was implicated in it by setting down with him; and to clear his character in the opinion of a brother naval officer higher in rank than himself, he frames that false excuse to palliate his own conduct, and to show that he did feel at that time how degrading it was, and that it was his duty to represent that to her royal highness. Take it either way, my lords, and that fact is conclusive as to lieut. Hownam, as to his feeling at the time—a feeling at variance with that at your lordships' bar. I can make great allowance for that officer—he is a son of an old servant of the family, and has received his promotion from the influence and bounty of that individual—he feels it important

* See p. 360 of the present Volume.

to prop up the character of his benefactress; but it manifests, in the strongest terms, his sense of the conduct of her royal highness at the time he was addressing captain Briggs. My lords, with that observation I will dismiss the testimony of lieut. Hownam. I have already told your lordships how the matter took a different direction from that period; I have commented upon the testimony subsequently adduced. But now let me call your recollection to the pledge given by Mr. Brougham when he addressed your lordships; and that I may not misstate it, let me read it in his own words. My lords, he says, as to Mariette, "the Queen has hitherto never known any thing to her prejudice, and she will therefore be presented before your lordships, and you will have an opportunity of hearing her account of those transactions which have been so falsely told by others; but I repeat," he says, "that it is gratuitous on our part—that we do it voluntarily, from an excess of caution, lest any one might now suppose that there was any witness whom we dare not to call.*" Such, my lords, is the manner in which my learned friend introduced his pledge to your lordships, that Mariette should be produced at your bar. How that pledge has been kept, your lordships have seen. Let me examine, for a moment, the different distinct reasons given for the withdrawing of Mariette.

My lords; I saw, after lieut. Hownam's evidence, that my learned friend was, from that moment, diverting your lordships attention, and the attention of the country, from the case, because he never meant to produce another witness to the facts. And accordingly, after the affair of Restelli, and after the harangue on baron d'Ende, he came forward, and told your lordships, that it became impossible for them further to proceed in her majesty's defence; that those circumstances prevented his further prosecuting it in the way he wished, and he should call no more witnesses. Then came my learned friends, Mr. Denman and Dr. Lushington—and the reasons they have given are the most extraordinary I ever heard adduced in a court of justice, for not calling witnesses who were to prove the truth. Their hypothesis is, that all our testimony is false; that it is founded in a foul and scandalous conspiracy, of which there is not the slightest testimony. They say, we will produce witnesses to prove that all your testimony is false; but unluckily lieut. Flinn has flinched under cross-examination; he has not stood that which is the criterion of truth; —and therefore Mariette Brön and the other witnesses are not to be produced at your lordships bar, because they have a fear and an apprehension, that although they have come here to speak the truth, and nothing but the truth, they may, upon the cross-examination, unfortunately let slip something which, though true, may injure the case upon the part of her majesty! Good God! my lords, was ever such a reason given? If a witness is to speak the truth, what fear has he of a cross-examination? Not all the ingenuity of the advocate can extract from him that which is not true; because, clothed in the armour of truth, he is to speak to the facts fairly, and all the terror of a cross-examination must vanish before the person who comes to speak the truth, and the whole truth. But, my lords, the whole truth must not be spoken before your lordships, as in the case of lieut. Hownam, where a great deal was extorted from him which they never meant should appear, and which did not appear in his examination in chief. This case they are so anxious to leave free from all suspicion. Those persons so desirous of producing every satisfaction on your lordships minds, give this excuse for not producing Mariette Brön. But another excuse was given yesterday by my learned friend Mr. Brougham—that intelligence they had received at that moment was the reason why they did not before call Mariette Bron. But, my lords, who are the other witnesses whom they have not called? If Mariette Bron, the sister of Demont, is suspected by them, and they are apprehensive she may not speak the truth, let me, for a moment, call your lordships attention to the other witnesses whom they might have called. My lords, I mention Bergami himself, for the sake of making only one observation—but Bergami might have been called; and though my learned friend, Mr. Denman, thinks it is unheard-of in the annals of your lordships, that the person accused of adultery should be called to disprove the case, there is an instance in Campbell's divorce in the year 1799, where major Hooke, charged with the adultery, was produced at your lordships bar, on

* See p. 199 of the present Volume.

behalf of the female. Not only is Bergami not produced, but he does not venture to accompany that mistress, whom he has so faithfully served, and to attend her in all her difficulties in this country. But, my lords, all the family of Bergami are dismissed at St. Omer's—no, not dismissed—but he returned, in one of her majesty's carriages, to the Villa Bergami, where now, in the absence of her majesty, the wife of Bergami also has been seen. But, to touch the shores of England, to introduce him to the people of England, would not do for her royal highness; and neither he, nor one of his family, ventures to accompany her royal highness. But, I ask, if there has been no impropriety in this intercourse—if he be this faithful servant—why is he not brought to this country? Why does not her majesty say, "I had been deserted by all my English suite; I have chosen and preferred this man for his merits; he shall still be my chamberlain." And her chamberlain he still is; for we have not heard of his being dismissed. I have heard of a vice-chamberlain being appointed, since her majesty arrived; but I have not heard of a chamberlain, and I believe he still occupies the station.

But, my lords, let me just call your recollection to that which was stated by my learned friend, as to what he should prove with respect to the promotion of Bergami. Oh! your lordships have been left in a happy ignorance of the merits for which this man was raised to his present rank. It is to be proved by sir W. Gell and Mr. Craven, that at the time he was hired, there was the best of characters given to him by the marquis of Ghisiliari; that there was a promise of promotion held out, and that that was one of the motives operating upon her royal highness's mind. Nay, it was to be proved, that he had not only been honoured with the confidence, but had dined at the table of general Pino, but which colonel Teuillé cannot recollect to have been the case. Sicard is called. He developes what was the real hiring at Milan. So far from the promise of any advancement, he was only hired at the time as a temporary courier to go as far as Naples. The promise was this, that if, upon the arrival at Naples, there could be a situation provided through a vacancy, he should be received as a servant on the establishment. But, your lordships have been kept in ignorance of the meritorious services of this favoured man. What was there at Naples—what was there at Milan—what was there from the time of the departure from Naples, that called for those extraordinary favours? What was there that caused him to introduce into the family, unknown to them at the time, his relations? Faustina is not known to Dr. Holland to be one of his relations; the countess Oldi is not acknowledged as such at the time. How is it that Louis Bergami is entitled to a seat at her majesty's table? But her majesty, who, according to the evidence of Sicard, never before, under any circumstances, admitted a servant to her table, has admitted, not only the favoured Bergami, but his sisters, and Louis also, without the slightest cause assigned. My lords, are not these things strong grounds of suspicion and inference? I say they are grounds of the strongest; and when coupled with the rest of the case, furnish your lordships with a ground to acount for this rapid advancement and undeserved promotion. But, if they dare not produce Bergami at your lordships bar, how is it that the countess Oldi is not produced? Throughout the whole course of the evidence, where female character is to be supported, only one female witness, and that female witness only speaking to her royal highness's conduct for twenty-four days, lady Charlotte Lindsay, is produced by her royal highness. But, my lords, who is so fit, by her own admission, as the dame d'honneur who was about her person, her immediate companion, and who has been with her from the period of her English suite quitting her at Milan, up to her arrival in this country? That lady of honour, is she such a discredit to her royal highness, that she is not to accompany her? Is she to be left without a dame d'honneur, and to travel up from Italy without a single attendant of that rank? My lords, I say, that the countess Oldi is the very witness for that purpose. Count Vassali has conducted her from Dover; and there can be no suspicion of her in the mind of her royal highness. She has been one of the family; she has been with her through all her travels and all her journies; and she was opened by my learned friends as a person to be called to negative the facts stated to have occurred in the carriage, on the journey from Rome to Sinigaglia. But she is not called to negative those facts. Who else is there, whom they ought to have pro-

duced? Where is William Austin? Why is not he produced? Is he not a fit person to be called as a witness? He is now of the age of nineteen or twenty; he might have contradicted those witnesses. Where, too, is Hieronimus? At Brandenburgh-house; but not produced. Where is Schiavini? He also is here, and not produced; though it is sworn by some of the witnesses, that he did acts, with regard to the tent on board the polacre, which it was important to contradict. Where is Louis Bergami? Not called! Where is Camera who, also, was on the journey? Not produced! Where is the Jew harper, as to whom there was a cross-examination of Demont? He is not produced to contradict her. And Carlini, who was on board the polacre and at Aum? But he is not produced by her royal highness. Besides which, there are the whole family of Bergami, Faustina, the mother, Francisco, Camera, Bernardo, and not one of them are produced before your lordships, though my learned friends undertook to contradict every part of their evidence. They called lieut. Flinn and lieut. Hownam, and, not content with that, they afterwards called count Vassali; but those other persons have all such unfortunate nerves, or such treacherous memories, or they are afraid that the truth will be got out of them at your lordships bar—and therefore not one of them is produced before you! I say, my lords, this fact proves more against her royal highness than any thing else in the whole cause, particularly after that which is stated by Mr. Brougham, and after the frivolous excuses made, as to Mariette, which can have no application to the rest, and which, in the case of Mariette, failed to satisfy any mind as to the reason of her not being called.

I congratulate your lordships, that I have just arrived at the conclusion of my address to you; because I am sure your patience must be exhausted, and your attention fatigued. My lords, my duty has been an anxious one—it has been to bring before your lordships the evidence in the case, I have strictly confined myself to that duty. I trust your lordships will at least acquit me of having, in the course of those observations, made any unnecessary appeals to your feelings or your passions. I have done that which was the only duty your lordships had imposed upon me, and which I was anxious to discharge to the best of my ability. I have fairly commented, as I trust, upon the evidence produced. That, my lords, was my duty. But it seems there is another code of duty for advocates of the accused, that has just been discovered for my learned friend Mr. Brougham. The duty of the advocate of the accused is, to protect his client at all hazards—nay, separating even" (he says) "the duty of a patriot from that of an advocate, he must go on, reckless of consequences, if his fate should unhappily be to involve his country in confusion for his client." Such is the text! Your lordships have had the Speeches for a comment. My lords, what duty was imposed upon my learned friends?—to lay before you the case of the Queen, to establish her innocence from the charges exhibited against her—that was the duty imposed upon them—that they have attempted to do by the evidence they have given. My lords, have they confined themselves to that duty? No, my lords; to them it is permitted to launch into invectives against all the constituted authorities of the realm. The Monarch is not to be spared—modern history is to be ransacked—the annals of corrupt Rome are to be searched, in order to find out some quotation by which the feelings of the Monarch may be wounded—by which the monarchy may be brought into disrespect in the country. The cruellest tyrant, the man the most detested in antiquity, is to be brought forward as a supposed parallel in this case. Nay, the Monarch is not the only one to suffer from the imputations. Your lordships are not spared—no one concerned in the proceeding is spared—by the observations of my learned friends. My lords, I will not say I pardon them. Perhaps some excuse is to be alleged for them, under such a trying situation. If the Queen was innocent, those topics were perfectly irrelevant and unnecessary. The Queen's innocence cannot be established by hurling envenomed darts against other persons. No, my lords, innocence stands secure in its own defence—innocence wants not to find motives for revenge. It is time enough, when her innocence is established—if ever that period shall arrive—to give vent to those feelings; but during the time of its being established, I cannot help thinking that the path of duty was clear before them.

But it appears, from the conclusion of my learned friend Mr. Brougham's eloquent speech, that the public have pronounced a verdict upon this occasion.

The public, my lords, have pronounced no verdict. There is a part of the community, undoubtedly, who have attempted to do so—who have, by the most base, by the worst and the most insidious means, endeavoured to deceive the well-meaning, and the loyal, and the good part of the community,—who have, by every means in their power, attempted, during this investigation, to blacken the characters of all concerned in it, and of the witnesses who were produced upon the occasion. And, my lords, while they had the cause of the Queen in their mouths, they had another object in their hearts—that of change and revolution. That is their object. To further that object, this has been done. It would pain me, as it must every one—it will pain persons in future, who shall read the annals of the present period—to find that any countenance could be given to such attempts. I trust it has not been given by the illustrious person accused, but the historian will draw a veil over this part of the transaction, not only brought before your lordships as a ground on which you are to pronounce your decision; but you have been told, undoubtedly in magnificent language—in a manner I have rarely seen surpassed—in effect great and considerable—you have been told in the peroration of my learned friend, Mr. Brougham, that your lordships are to pause—that you are standing upon the brink of a precipice—that it will go forth your judgment, if it goes forth against the Queen, but it will be the only judgment you will ever pronounce which will fail of its object, and return upon those who give it. Nay, my lords, you are called upon afterwards, as the only means of saving the honour of the Crown and protecting the purity of the Altar—you are called upon to do that at all hazards, at all risks whatever; you are called upon to pronounce a verdict of acquittal, because, forsooth, such is the judgment of what my learned friends choose to call the country, and because your lordships are to be actuated by such intimidations! My lords, God forbid that the time should ever arrive when such threats should have any weight in this assembly! I address persons of high honour, and character unstained, whose decisions hitherto have commanded the respect of the country—and why? because they have been founded in justice. My lords, the Throne will be best protected, the Altar best preserved, by a judgment pronounced by your lordships, according to the evidence which has been produced before you. Upon that evidence I rest the conclusion, having commented upon it as it was my duty to do. The result to which I think it inevitably leads is a verdict of Guilty. If your lordships shall be of that opinion, I am sure you will pronounce it with firmness. It will be satisfactory to your own conscience—it will, sooner or later, be satisfactory to the country.

Mr. Solicitor General then addressed their lordships as follows:

My Lords;—

Never did an individual standing at your lordships bar stand in more need of your indulgence than myself upon this occasion. I have, my lords, to address you upon a subject already so completely canvassed and exhausted, that I can scarcely expect to throw any new light upon it. I have, my lords, to address you when my mind and faculties are jaded and exhausted by the continued application and consideration of the same ideas. My lords, I labour under another difficulty, no less great than those which I have pointed out; namely, that I am to follow my learned friend the attorney-general, who, in his address upon this occasion, has taken such a minute, and at the same time such a complete and comprehensive view of this important subject; who has addressed you in such a powerful, such an impressive, such an irresistible speech, as must of necessity carry conviction to the minds of every one who has heard it. I am, my lords, to follow him upon the same subject, without any alteration whatever of the facts, and I feel that almost every observation that I can by possibility address to you, has been, in a great measure, anticipated. My lords, under these circumstances, if I were to follow my own inclinations and my own feelings alone, I would not add one single word upon this subject; but, I have a duty to perform, which, however painful and however personally irksome to myself is the task of performing it, I must endeavour to discharge with manliness and fortitude. We are here engaged in the consideration of a subject perhaps of the greatest interest that ever agitated the feelings of this empire. I am commanded to assist my learned friend in the discharge of

his duty; I must not shrink from the task; I must endeavour to perform it, with the best ability and power that I can upon such an occasion command.

My lords; when this case was originally opened to your lordships, it must have been perfectly clear to every individual at all conversant with the investigation of truth in courts of justice, that from the wide range of facts, the number of witnesses who were to be called, and the period over which the inquiry was to extend, there must, in the result of this investigation, be a considerable body of conflicting evidence. My lords, my learned friend and myself, in considering this subject, were aware that that must of necessity be the case. We were prepared to expect it; but knowing at the same time the truth of the story—being satisfied that we were not coming here for the purpose of endeavouring to establish that which was false—we knew that, although there might be conflicting evidence as to some parts of the case, the consequence and result would be, that the main features of the case, the great outline of it, would be established by our own evidence, and in all probability by the evidence adduced on the part of the defence, in such a manner as to carry the fullest conviction to the minds of those who were to decide upon it.

My lords; it is not my intention, after the elaborate speech of my learned friend, addressed to every part of this important subject—it is not my intention of course to go in detail through the whole of this great mass of evidence. I shall take a much narrower course; and in the observations which I am about to present to your lordships, I shall discard from my view, sedulously and attentively, every part of the case upon which there is any thing like conflicting evidence—not, my lords, that it will be discarded ultimately from your view, because where there is a conflict of testimony, it will be for you ultimately to decide between us; but, as my learned friend has sifted and examined every part of the case, with so much minuteness, as he has laid the case in this respect so fully and entirely before your lordships, I conceive that I shall best discharge the duty which is cast upon me, by taking a much narrower view, and confining myself only to a particular part of the case, ranging itself in the manner I am now about to point out to your lordships. My lords, the course which I mean to pursue then, is, to comment upon and to lay before your lordships those facts which are not disputed, or are feebly contested on the other side—those facts which are established by witnesses who have not been contradicted in the course of this inquiry, and whose character have not been impeached—those facts which are established by witnesses who might have been contradicted, my learned friends, being challenged to contradict them, and who have not been contradicted in the course of this inquiry—and ultimately, my lords, those facts which have been established by the witnesses called on the part of the defence. My lords, in this view of the case, I steer clear of every objection that is made on the other side; and I think your lordships, viewing the case in this light, with a body of evidence all tending one way and unopposed, will see that a case is made out so clear, so distinct, so complete in all its parts, as to carry conviction to the minds of those even who are least disposed to be convinced upon this important subject.

My lords; there is one feature of this case which can never be too frequently adverted to. It ought to be considered with precision, because it appears to me to lead directly to the conclusion of guilt. I do not mean to say that taking that alone your lordships would infer guilt from it; but it is a feature so important in this case; rendered so important from the manner in which it has been handled on the other side, the attempts to explain it, the futility of those attempts, the entire failure of those attempts, that I feel myself bound, notwithstanding the observations already made, again to press it upon your lordships attention. My lords, I allude to the elevation of Bergami. I need not recapitulate the facts of the case. He was hired as a courier, as a courier for that journey only from Rome to Naples. In a few months afterwards we find him elevated to the situation of equerry and chamberlain—made a knight of Malta (a very high and great distinction), a Sicilian baron, a knight of the Holy Sepulchre, and in possession of a very considerable estate in the neighbourhood of Milan. My lords, these are facts which are not disputed. It becomes then, my lords, material to consider how they apply, and how they are met on the other side. My learned friends feel the force of them—they feel how irresistible the weight of them is in this inquiry—

and, in the discharge of their duty, they of course endeavour to give some explanation. Now, my lords, let us inquire into this explanation; let us sift, let us examine it, and see how completely, how entirely, it fails. My learned friend, Mr. Brougham, in the course of his address to you, stated that all this was very natural; Bergami was born a gentleman; he was reduced in his circumstances merely by the events of the French Revolution; he had sold his estate to pay his father's debts. My lords, this was the statement made by my learned friend. If the facts were true, every circumstance so stated might have been established in evidence, and would of necessity have been established in evidence. Then, my lords, when my learned friends on the other side spend entire days in drawing a distinction or in making a comparison between the speech of my learned friend the attorney-general and the evidence in the cause; when we come to observe the course which they themselves take, we find their statement still more wide from the proof than even the representation which they made of the statement of my learned friend. My lords, what is the evidence they have laid before your lordships with respect to this point? They call colonel Teuillé, who gives you this account of Bergami: He tells you, he held a situation equivalent to that of a serjeant in the French army; that he was a private courier of general Pino—and we have it in evidence uncontradicted, that he was in the service of general Pino at the wages of three livres a day, waiting regularly at table. That is the evidence as to the previous condition of Bergami so painted by my learned friends —reduced in his circumstances, selling his estate to pay his father's debts! When circumstances of that kind are stated by my learned friends and not proved, what would they say if I were to introduce the confinement of Bergami in Lodi and state what were the circumstances of the confinement in that prison? Now, my lords, let me go farther. My learned friends say, "it is quite consistent; that the statement is correct; he had the manners of a gentleman, and that accounts for his extraordinary elevation." I beg for a moment to direct your lordships attention specifically and precisely to the evidence upon that subject, and among others to refer to the evidence of Mr. Sicard, as so distinct and so precise as to leave no doubt of the extravagance of this statement. He is asked, "Did he appear superior to the situation in which he was hired? He was not quite so chatty as the Italians generally were; but I believe he behaved very properly so far as I saw. I was never acquainted with any couriers in general, but he behaved very well in my opinion."—"Did he appear to be superior to persons in his situation?" "Not particularly; he behaved very properly in his situation, civil and obliging and attentive to his duty. He might have been rather more of a gentleman than of the lower sort."* This is the description given by Mr. Sicard, a witness called on the other side, with respect to the manners of this individual — his manners being relied on as one of the main reasons that led to his extraordinary promotion. It may be said, that Mr. Sicard is not able to form a very correct judgment upon a question of this kind; but we have the earl of Guildford, who dined at the same table with Bergami after his promotion, and, on two different occasions, was formally introduced to him by her royal highness, "Voici monsieur Pergami." He has good opportunities, therefore, of observing his conduct and manners, and this is the question put to him: "From the opportunities you had of observing the behaviour of Bergami, could you form any opinion of his being superior to the situation in which he had formerly lived?" "No, it did not strike me that he was." The question and answer were read at the request of the solicitor-general of the Queen to his lordship, and he stated that the answer was correct. So much, then, my lords, as to the manners of Bergami, as they appear by those two witnesses called on the part of the defence.

Sir W. Gell is called, my lords, to speak to the same subject. Sir W. Gell had seen him upon many occasions. On sir W. Gell's evidence I shall make no particular comment; but it appears, as compared with the evidence of Mr. Craven, to be rather too figurative in its style and character. He is asked, "Upon any occasion when Pergami has come to see you, or you have seen him, when the Queen has not been present, what has his conduct and demeanor been towards you as to manners?" "I should say, on all occasions, rather more respectful than was

* See p. 411 of the present Volume.

necessary: he generally required to be pressed to sit down, that sort of behaviour." Why, my lords, he was overawed by the superior dignity and deportment of sir W. Gell; he would not sit down without being pressed, and sir W. Gell is called to show he had been born in the situation of a gentleman; that when advanced to the station of a gentleman, he conducted himself according to the character and behaviour of a gentleman, and showed he had been born and intended for that rank. Nothing can be more decisive than the language of sir W. Gell upon that subject. "Was there any thing in the manners of Pergami, which made it disagreeable to you as a gentleman, to share with him the duties of chamberlain?" "Quite on the contrary; he was remarkably attentive to me, and would have handed me down stairs with candles, if I would have let him: I was obliged to explain to him that it hurried me, being lame, and to request he would let it alone." "Do you consider, that that conduct on the part of Pergami, was the conduct of a gentleman?" "Perfectly so to me." Now, my lords, really this is too much! Your lordships have this further in the evidence of Whitcombe—he was at the time in the situation of chamberlain, a Sicilian baron, and a knight of Malta, and restored by the Queen to his original station in society. Mr. Craven, accompanied by Whitcombe, waits upon her. What passed on the stair-case? He puts out his hand, and privately presses the hand of Whitcombe as an old friend, Whitcombe being the servant of Mr. Craven. My lords, is this not sufficient to show you that this is all a fiction on the other side? They think it necessary to account for the rapid promotion of Bergami, and to make something like a show of defence in this respect; because, if they do not, the evidence must lead but to one conclusion.

My lords; again something is said of the merits of Bergami, to account for his extraordinary promotion. I have anxiously looked for some extraordinary merit to account for this; but there is not the slightest evidence in the cause, no attempt at proof—"a respectful obedient servant, and attentive to his duty"—this is all the proof pointed out by the evidence on the other side, to account for the elevation in about twelve months, from a servant waiting at table, to a knight of Malta, a Sicilian baron, the proprietor of a considerable estate! My learned friend, Mr. Brougham, says, "Oh! this advancement was gradual, it resembled more the progress of a man struggling against opposition, than the manner in which love advances its votaries." "My lords, the fact contradicts this supposition. But there is another most singular argument. It is said, that there was a promise, at the time he entered the service, of promotion. Now, let us see, my lords. Taking the more favourable witness—for sir W. Gell on these occasions is always the foremost—he says, that the marquis Ghisiliari said he hoped, if Bergami behaved well in the family, he would be gradually advanced. But, my lords, I like the evidence of Mr. Craven much better than that of sir W. Gell; for this reason, that it was given in a much more plain way, a much more cautious way, in a much more considerate manner, and because it is confirmed by the evidence of Sicard. He is asked, "Did he state whether he had any knowledge of the family of Pergami?" He said he had known his family a great while, and that he was interested about him. "State what the marquis said as to the probability of promotion?"—"He said that he hoped if he behaved well, he would be continued in the family." Now, my learned friends were not satisfied with that answer, and therefore they put another question: "Was any thing said about advancement or promotion?"—"Yes; marquis Ghisiliari said, that he hoped he might remain as a servant out of livery in the house when her royal highness stopped any where." Now, your lordships will observe how that is confirmed by the testimony of Sicard—this man Bergami, this serjeant of dragoons, had been hired merely for the journey to Naples—the marquis Ghisiliari knew this, and knowing he had been a courier attached to himself and to general Pino, he might say, "the situation of courier is a little below his condition, therefore I hope he will be gradually advanced," and he desires he should not be discharged at Naples—"wherever her royal highness stops, I hope that he may be continued in her service,"—in what situation? only "as a servant out of livery!" Now, my lords, let me refer to the evidence of Sicard, "Were you in the habit of engaging all the servants?" "I was."—"Were you in the habit of engaging them all alike as you did Pergami, without any communication with her royal highness?" "That

was an exception on the journey; he was only engaged as far as Naples." Now, my lords, let us see how the case stands. This man is originally a serjeant and the private courier to general Pino—he is a servant waiting at table, receiving wages at the rate of three livres a day—he is out of place, and is engaged for the purpose of going merely as far as Naples—a person connected with him, the marquis Ghisiliari, says, "I am desirous of being of service to him; when your royal highness settles at any place, let him be continued as a servant out of livery." And my learned friends are reduced to the necessity of stating this as a positive engagement entered into, of advancement and promotion—for the purpose of justifying, what? for the purpose of justifying this most extraordinary elevation! Now, my lords, what is the inference which they draw from all this? Is it possible that we can shut our eyes to the inference which must of necessity be drawn? Can your lordships be deceived by all these witnesses? And when my learned friends are reduced to the necessity of insisting upon explanation of this kind, which are so futile and so contemptible, and which ultimately so completely fail them—what is the inference your lordships must of necessity draw? To what are we to ascribe this merit? One of our best dramatic authors, in speaking upon subjects of this kind, has given us this solution, for your lordships will find that it is put into the mouth of a Roman empress, in a situation, and under circumstances which I will not describe:

"————Thread-bare chastity
"Was poor in the advancement of her creatures;
"Wantonness, magnificent."

My lords; that is the inference which we draw. We say, the facts lead necessarily to that inference. We say, it is impossible, connected with the other circumstances of the case, that your lordships should not come to that conclusion.

But, my lords, let me direct your attention to another circumstance; namely, the elevation or advancement of the family of Bergami. That family is successively introduced into the house: my learned friend, Mr. Denman, attempts to explain that. He says, at Genoa Bergami had got into the situation of master of the household. He thought some explanation was necessary. The explanation he gives is utterly unfounded in fact; for it turns out, by reference to the Minutes, that he was not at that time master of the household—and yet three or four members of the family are introduced into the household at Genoa!

Now, my lords, I beg to direct your lordships attention to the transactions at Genoa. All the English suite had left the service of her royal highness—it is not necessary for me to say from what motive. Lady Charlotte Campbell went as far as Milan, and there retired. What would one suppose that, under such circumstances, her royal highness would do? Would she not have applied to some English families of distinction to allow some of the younger branches to be attached to her person? My learned friends say, No; there were causes existing in this country to prevent it. My lords, there were no causes existing in this country that could, by possibility, prevent it. She was at that time the mother of the heir presumptive of the Crown—she was connected with some of the most powerful individuals in this kingdom, all of whom would have been disposed to give her countenance, assistance, and support in the attainment of an object every way so honourable. But then my learned friends say, it was impossible this could be effected. Do my learned friends show that any attempt was made to accomplish it? Do my learned friends show an application made to any individual of rank and character, to supply any of those places which had been deserted? My lords, it appears as if she was desirous they should be excluded. Lady Glenbervie was still at Genoa. Does it appear, that any application was made to her to join her royal highness? There is no evidence to show she was desirous that the places lately occupied by those distinguished individuals should be occupied by persons of that station and character.

My lords; we are told it had been communicated to her royal highness, that she was surrounded by spies even at Naples. My lords, that rendered it still more necessary, that she should be surrounded by persons who would be a security against any attempts of that kind, and who would come forward to speak to the rectitude of her conduct—the best possible defence against any attempts of that nature.—My lords, instead of pursuing this course, which would naturally be pursued by a woman of the character which my learned friends would point out her royal highness

to have been at that moment, what is the course that she pursues? She engages in her service the countess Oldi. From what motive? Has any reason been assigned, any plausible pretext even attempted, by my learned friends? Let us examine the qualifications of the countess Oldi, and see whether the description of her character, her acquirements, her situation, given by the witnesses, do not show, to absolute demonstration, that there was some covert motive and reason in that most extraordinary appointment? In the first place, your lordships hear that the Queen could speak only a word or two of Italian; so that, according to the statement of Mr. Denman, it was necessary she should employ an Italian to speak to the servants of Naples; and it appears also from the testimony of Dr. Holland, that in Italian she could carry on no conversation with her lady of honour—Countess Oldi could speak no French. So that those two persons were in that situation that they could not carry on the slightest conversation.—My lords, there is another fact; namely, the manners of this lady. Sir W. Gell says, that she was a very decent, rather good-looking, respectable, modest, lady. My lord Guildford says, "not particularly vulgar—the exact shade of vulgarity I cannot now charge my memory with." So that here is a lady who cannot speak French, her royal highness cannot speak Italian, the lady not particularly vulgar, the precise shade of vulgarity cannot be fixed—and this lady, without any assignable cause, is chosen to supply the place of those distinguished individuals whose names have been so frequently mentioned! But, my lords, another circumstance—this was a mystery in the household, it was not known that she was the sister of Bergami. Why, my lords, was it to be kept a secret? If every thing was fair—if there was no improper motive—if the parties were not ashamed of the transaction—why was it to be kept a secret? It appears, that Demont did not know it for a considerable time; lieutenant Hownam did not know it for some time; Dr. Holland had not the slightest idea of her connexion with Bergami. My lords, it appears also, that when lord Guildford appeared at the Villa d'Este, Bergami was introduced in due form:—"Voici monsieur Bergami," the countess Oldi was introduced, sat at table, and my lord Guildford went away without the slightest idea that she had any relationship with Bergami. Now, my lords, putting all the circumstances together, and connecting them with the extraordinary elevation of Bergami, what is the conclusion to which they lead? A lady vulgar, "not particularly vulgar," the precise shade of whose vulgarity cannot be determined, decent in her manners, according to sir W. Gell (always desirous of putting the best face upon it), speaking a language her royal highness cannot understand, introduced without being acknowledged as his sister into the household. For what reason is this? To afford facilities of communication — to protect the intercourse—to screen it from the observation of others. We must shut our eyes and blind our understandings — we must distort the observations we have made with respect to the transactions of mankind—if we do not come to that conclusion. No other solution can, by possibility, be given.

Now, my lords, while I am speaking as to the family of Bergami, I beg to go a little further. Your lordship sees Bergami is introduced wearing a livery—twelve or thirteen members of his family are introduced one after another—her royal highness is fenced round with them, and Bergami is protected so far from the observation of strangers. But there is an exception, and a most remarkable exception, speaking emphatically upon the subject, namely, the wife of Bergami. My lords, Mr. Hownam says, "I was three years in the service. I was at the Barona repeatedly, but I never once saw his wife." Another witness tells you, that she was at the Barona upon one occasion, when her royal highness was coming, and she was sent off—the expression was, "she escaped." Now, my lords, how do we explain this? The child is brought into the house—the wife never makes her appearance—she submits to any sacrifice, rather than interfere with this connexion between her husband and her royal highness. My lords, I put those facts together, and they lead to a strong inference. I do not mean to say, that, taking them by themselves, unconnected with the other circumstances, you can act upon them; but they lead to very strong suspicions—they are facts of a most striking kind, as introductory to those scenes, to which I shall have to direct your attention.

My lords; there is another circumstance, which is not disputed, and which is remark-

able—the contiguity of rooms upon all occasions—upon all occasions, the facility of approach afforded to Bergami to the bedroom of her royal highness, to the exclusion of all other persons, except the countess Oldi. Why do I direct your attention particularly to this point? Because it is so marked by the evidence in support of the bill, and the attention of my learned friends on the other side was so distinctly drawn to it. They might so completely have contradicted every statement we have made in this respect; and they did not attempt to do so. It is therefore a fact confirmed beyond the possibility of doubt. At the Villa d'Este there was only a small cabinet separating the bed-room of her royal highness from that of Bergami, and the rest of the family were in a different part of the establishment. There was an architect employed on the part of the Queen, to take plans of the Villa d'Este, undoubtedly with a view to this proceeding: they had an opportunity of taking plans of the Barona, the disposition of which was precisely sworn to; they had an opportunity of taking a plan of the Villa Villani, and all the other houses in which her royal highness resided; and they have not ventured to produce them before your lordships. You have, then, in addition to the inference arising from the advancement of Bergami, and the advancement of his family, a laboured arrangement, to afford to Bergami facility of access to the bedroom of her royal highness, to the exclusion of all others, uncontradicted by any evidence; though they had abundant means of contradicting it if it was not true.

Now, my lords, having directed your attention to these circumstances, what explanation can be given with respect to the arrangement of rooms? I have looked in vain for any explanation by my learned friends on the other side. Mr. Williams says, "Oh! all this was intended to guard against surprise, against some danger with which she was threatened." My lords, have we any evidence to prove this? Are we to be led away by confident assertions of counsel? I look in vain for any thing of the kind. My friend is learned and laborious—he introduces quotations in every possible way, for the purpose of ornamenting his address to your lordships. I look around to see whether I can possibly discover to what he refers, or from what source he takes this idea of a "surprise." I have not been able to discover it, except in a grave and serious author, with whose writings I know my learned friend to be very conversant—I mean, Foote, in the Trip to Calais, where I see something like a hint for this. Your lordships may recollect what I allude to—a conversation between Minniken the chamber-maid and O'Donovan the Irish chairman, respecting the protection afforded to their mistress by sir Henry Hornby. My lords, I will state the passage. O'Donovan was stating the extraordinary friendship of sir Henry Hornby—he says, "My lord was obliged to go about his affairs into the North for a moment, and left his disconsolate lady behind him in London"—*Mrs. Minniken.* "Poor gentlewoman!" — *O'Donovan.* "Upon which his friend, sir Henry, used to go and stay there all day, to amuse and divert her."—*Mrs. Minniken.* "How good natured that was in sir Henry."—*O'Donovan.* "Nay, he carried his friendship much farther than that; for my lady, as there were many highwaymen and footpads about, was afraid that some of them would break into the house in the night, and so desired sir Henry Hornby to lie there every night."—*Mrs. Minniken.* "Good soul! and I suppose he consented."—Now, I really cannot from any other source give an explanation of this surprise. There is not a particle of evidence of that description, except that of which we have heard so much—I mean that famous story of the baron Ompteda. From the beginning to the end of this inquiry; nay, long before this inquiry commenced—not only here, but elsewhere, have I heard my learned friend, Mr. Brougham, state, "I shall prove a detestable plot and conspiracy against her royal highness, to break open her drawers and to steal her keys." I doubted how this would be evidence in the cause; and my learned friend, the civilian, says, "Oh! I will show how it is evidence—we will show how it operated upon her mind." He silences us—in that way it might be evidence. We have waited day after day—baron Ompteda has been rung in our ears—they have endeavoured to state declarations of servants, but have procured none. My learned friend may say, it cannot be proved. If it cannot be proved, the probability is, it never existed; but if it is true, there is the celebrated Berstett, to whom reference has been made. My learned friends have had

ample funds afforded them on their signature, that they were necessary—why was not Berstett produced, to make out the statement of Mr. Brougham. But, my learned friend found, from the observation of the attorney-general, that this was a case requiring an explanation. And what is the evidence he gives, or the attempted explanation, or the time at which explanation is given? In the last stage of the case a letter is produced—I must not call it by a monosyllable—but, a letter is produced by a most extraordinary manœuvre—I say (to apply a phrase which my learned friend has applied to us) by one of those slippery manœuvres, for which my learned friend is so celebrated—extending his hands—opening his mouth—he rushes in, and interrupts the proceedings, and says, "My lords, I have received most important intelligence; for God's sake let it be immediately read!" My learned friend knew it was not evidence—he knew it was not admissible in that stage of the cause—he knew it was contrary to all rule, all decorum, to all propriety, to all sense of the situation in which he stands, to state the contents of that letter. I have a right, my lords, when I see such conduct, to doubt the contents of that letter, and the period when that letter was received. So much, then, my lords, as to this most extraordinary part of the proceedings—this surprise, this alarm, this trepidation, and so on, that was the occasion of their perpetually recurring arguments.

But, my lords, there is a most unfortunate circumstance which confirms the perpetual contiguity of the apartments, and destroys completely the foundation on which it is put on the other side; and that is, what took place on board the Leviathan. Was there any "surprise," to be apprehended on board a British ship of war? any personal danger to her royal highness, surrounded by captain Briggs, and his crew? The charge is futile; and yet we find her royal highness desirous of carrying on the same system as she had on shore—the arrangements are changed, Bergami is placed in a situation to have immediate access to her bed-room; and, so great an impression does it make upon her majesty in reference to her case, that she sends lieut. Hownam to Portsmouth to ascertain that fact.

Mr. *Denman.*—That is not so—he stated it was of his own accord he went.

Mr. *Brougham.*—Do not interrupt him—it would be endless, if you interrupt him whenever he does so.

Mr. Solicitor General.—I should certainly take it as a favour of my learned friend to interrupt me whenever I misstate any fact.

Mr. *Brougham.*—We shall be here till midnight.

Mr. Solicitor General.—I have not, I conceive, mis-stated a single fact, except that I may have drawn a wrong conclusion, as to the motives for the conduct of my learned friend Mr. Brougham. My lords; having made these observations, I shall beg leave to direct your attention to what took place in embarking on board the polacre. I beg at once to come to that part—out of compliment, indeed, to my learned friends; for they tell us that that is the only rag of a case we have left. On board the polacre her royal highness embarks at Augusta. She lay in a room contiguous to the room in which Bergami slept. It is admitted, that by opening one door, they could see one another in bed; but I will go to the return voyage from Jaffa. Upon that voyage, a tent is raised upon the deck. My lords, there was some dispute about the size, and the character of that tent. Mr. Hownam swears it was about ten feet by sixteen; and if your lordships look at it when drawn by Paturzo,* you will find that the plan corresponds with the account given by lieut. Hownam—an account differing widely from that given by lieut. Flinn. But I prefer the evidence of lieut. Hownam, because it appears more probable, and agrees with that of Paturzo. Under this tent there were a bed and a sofa. Upon this sofa did her royal highness sleep, and upon the bed Bergami, during the whole voyage, according to the evidence of Gargiulo, Majoochi, and of Demont. Paturzo and Birollo did not swear to the circumstance of Bergami sleeping under the tent during the whole of that time, but they swear to facts, from which your lordships will draw the inference that he did so; because they say, that when the tent was put down, they both went in together, that they remained together with a light for about ten minutes, that the light was handed out by Bergami, and that all was quiet during the remainder of the night. Now, I think, my lords, it is not too much to infer from

* See the Plan drawn by Paturzo in Vol. 2, p. 904.

the testimony of these witnesses that Bergami slept there during the whole of the voyage.

Now, my lords, the conduct on the other side is remarkable. There was a great attempt made to show that there was a communication below, and that Bergami might have gone to the cabin below; that is laboured very much by my learned friends—but all they can make of the witnesses is, that Gargiulo and Paturzo are paid too high for their testimony. All this is founded upon a fallacy. My learned friends turn this into an annual payment. It might then be too much; for the probability was, that they might be absent from their own house only two or three months; that their affairs would have become deranged that the harvest time would have past, which was the season of their gain. And they stated the circumstances in which they stood to the minister, Mr. A'Court. The affair was investigated; and after the investigation, this has been fixed, according to the best judgment which they could form of what would be a reasonable indemnity for their coming to this country. My lords, it is remarkable, that one of the witnesses called on the other side, is remunerated in this way. Mr. Ratti, the architect, sits down to estimate the remuneration for Giarolini, and by that is fixed what is the sum to be paid him. But, is there any thing, from the manner in which those witnesses gave their evidence, which leads to the slightest conclusion, that they deviated from the truth?

But, my lords, it having been thus proved, that those parties slept under the tent during the whole of that voyage, there were two witnesses called who were to lay prostrate the whole of this—the clear unsuspicious testimony of two English witnesses, lieutenant Flinn and lieut. Hownam. This was the confident statement made by my learned friends on the other side. My lords, it is said, that Mr. Flinn is a brave man. I entertain not the least doubt of it, but I think this—that Mr. Flinn feels himself embarked in a cause in which a great deal of passion has been concerned. He feels himself perhaps bound by a debt of gratitude to the Queen, which he is desirous of discharging in the way in which such a debt ought not to be discharged; and I think that this, and a variety of other circumstances, have operated upon his mind. For I think it impossible that any man, looking at the testimony of Mr. Flinn, can doubt that he has stated that which is not true. That he has a disposition to exaggerate is perfectly clear, whenever you come to any thing like measure; for throughout he is contradicted in these respects by lieut. Hownam. He tells us first of all positively, on his oath, that from the bed in the cabin the bed of her royal highness could not be seen. He is cross-examined, and after having sworn positively to the circumstances, he softens it down to saying, "I think it could not be." He is further cross-examined, whether he had ever placed himself in a situation to ascertain that, and he acknowledges he had not. Am I, then, not justified in saying, that he is a rash witness in swearing to facts not within his knowledge. He also says, "I slept above on the deck during the whole voyage." My lords, there was a reason for that—the object was, to prove him in such a situation as to have heard any thing that passed in the tent. He was to negative the hearing of two voices in the tent. That is the explanation I give of his swearing to that fact. My lords, adverting to the testimony of lieut. Hownam in this respect, you will find it contradicts the evidence of Flinn. Mr. Hownam was asked, and must have known where Flinn slept, for his cabin was contiguous to that of Mr. Hownam. He says, he did not sleep constantly on deck; it was by no means constant; it was occasionally only; "he slept in the cabin, and I remember some nights his having hung his cot upon deck." Now, my lords, as to the motive of lieut. Flinn. What was operating on the mind of lieut. Hownam at this moment? It is in that part of his evidence where he was giving his explanation of the necessity of there being some person to protect her royal highness upon deck it was put, that lieut. Flinn was there. In order to make out his case, it was necessary to show, that Flinn was not constantly there; so that Flinn, having one purpose to answer, says, he slept there always, and lieut. Hownam, having another purpose to answer, swears, that he was not always there, nor by any means often. I shall not attempt to reconcile their evidence, but leave it upon this—that the evidence of one or the other is certainly untrue.

My lords; I will go to another circumstance in their evidence. Lieut. Flinn pretended not to know where Bergami slept any one night. Now is that reason-

able? He says, "I had no curiosity, I had other business to perform." Is that probable? Then he is asked, "Have you any doubt that Pergami slept under the tent every night?" He says, "I cannot say." That is his first answer. He is pressed further, and further; and at last he states distinctly and in positive terms, "I believe he did not sleep there." Now, how can your lordships reconcile this? If belief was well-founded—how is it possible that, when asked this in the first instance, he should say, "I cannot say"? He would have said instantly, in answer to that, "I have a doubt, I know he did not; I believe he did not; I looked into the tent, and he was not there." My lords, I leave this part of the case. But your lordships will recollect, that it was necessary that some explanation should be given how, when he lifted up the tent in the darkness of the night, he should have discovered that Bergami was not there. "Oh! then there is a light in the binnacle." It is glass, he says. It is then put to him, how could that be, you were afraid of pirates; why did not you cover it? Oh, he says, it was occasionally covered, but it could not be always, because an opening was necessary for the purpose of letting in air for the light. Then it was either glass or an opening without glass—then it is not explained, how it could be necessary there should be an opening in front of the binnacle—then he is asked, whether the holes in the cover might not have been made larger—he says, they might have been, but the sea would have broken in, and put out the light. These things, my lords, show, that he had entangled himself in a labyrinth, from which he felt it difficult to extricate himself.

Now let us come to another fact, collateral I admit. But what was the observation of my learned friend? You cannot expect to contradict a witness in the main part of his story; he comes to tell a plain and simple story, well arranged. You must, therefore, endeavour to get him into bye-paths; and if you find him there contradicting himself—stating that which he is compelled to admit to be false—you then know how to appreciate the credit of such a witness, and you apply those observations to the subsequent part of his evidence. My lords, there was a paper produced, which he stated to be a copy made by himself. My learned friend says, he did not state it to be in his own hand-writing. If your lordships look to the Minutes, it could not be evidence, unless in his own hand-writing. He says, in express terms, "I made the copy." When a man says that, what are we to infer, but that the copy was in his own hand-writing? Then he is asked, from what he made that copy—he made it from a memorandum. First he tells us, that the memorandum was made by himself, then that the memorandum was made by somebody else—first that it was made in English, then that it was made in Italian, afterwards that it was made half in English and half in Italian. Now, my lords, when we pointed his attention to the extract, and showed him that every entry from the beginning to the end was Italian, we asked him how he could reconcile that to the fact he had before sworn to, that part was in English and part in Italian?—and then suddenly he was taken ill; and we have been told, not here, but in another place, that after a long cross-examination (it having lasted about a quarter of an hour) in a court intensely hot, this gentleman being used only to fresh breezes, fainted away. But, my lords, he comes again to the bar, and he says he does not recollect that he swore it was his own hand-writing. "Then whose is it?" "It is the hand-writing of Pasquali, made three months ago." My lords, it happened, that by mere accident, we were in the possession of the hand-writing of Schiavini—we asked him, that question—he was astounded by the question, conceiving we knew the fact, and he admitted it was Schiavini's hand-writing. And we are to be told, after this, that he is "a brave man," a "man of veracity" above all reproach. Out of this cause I know nothing of him. I do not doubt that he is a brave man, and a gallant officer. Except as it relates to this cause, I may admit he is a man of extreme veracity; but he has been unfortunately misled upon this occasion—he has suffered himself to be perverted—he has been influenced by the factious spirit which is abroad, and which influences the proceedings before your lordships. This had influenced his mind, and had led him in this instance from the path of truth. We, therefore, my lords, must reject his evidence. I should not have thought it necessary to make a single observation upon the testimony of lieut. Flinn, if, after all those exposures, my learned friend, Mr. Denman, had not defended his character, and ar-

gued upon his evidence. My lords, lieut. Flinn's evidence must be thrown entirely out of the cause.

Then, my lords, we come to the evidence of lieut. Hownam. He stated, that he believed Bergami slept under the tent with her royal highness: "I have heard it, and I believe it." My learned friend, Mr. Brougham, was not satisfied with the answer. He thought he might hang the belief upon the circumstance of his having heard it, and thus reject the evidence altogether. But lieut. Howman says, "It is not merely because I have heard it—I do believe it;" and this admission is wrung from him by my learned friend. No sooner is this point established, than Mr. Brougham says: "My lords, it is our case,"—I have contested the facts to the last moment, I have fought it inch by inch—as soon as I find it proved beyond dispute: "Oh! I admit the fact, it was originally part of our case!" And yet, my lords, it is remarkable, that between my two learned friends, Mr. Denman, and Mr. Brougham, there appears to be no union of sentiment—between Dr. Lushington, and Mr. Brougham, there appears to be no union of sentiment. On all other points throughout they agree; but on this point there is no union of opinion, because Mr. Denman throughout has contended, that it is not proved that Bergami slept under the tent. Dr. Lushington laboured it to a great extent, with great ingenuity, but, as I contend, wholly without effect. How are my learned friends to reconcile this, driving as they do, different ways, that my learned friends who are juniors in the case, should give up that which is an essential part of the case as opened by my learned friend, Mr. Brougham, for he stated that he opened it. Did I hear my learned friend right? Why, my lords, he never mentioned the polacre; minute as he was throughout, picking up every straw to comment upon, with a talent and power of mind altogether unexampled, by some fatality inexplicable—such is the constitution of the human mind—he entirely forgot the polacre: Oh accidental omission! extraordinary event! marvellous occurrence! Never before did my learned friend make such an omission; never before did he meet with such an extraordinary accident! But he liked better to leave it to Mr. Williams. He was to have all the sack, my learned friend Mr. Williams the bread. My lords, my learned friend did not forget it; it was no accident; it was intentional; it was designed. Great as his powers are, almost without precedent, reaching every thing, however minute, grasping every thing, however large, he found that he could not deal with this material. It was too stubborn for his workmanship; it could not be wrought by all his ingenuity and all his taste.

My lords; in addition to the belief of lieut. Hownam, of these parties having slept under the tent, your lordships have, I will not say the positive evidence, but that which I like much better, the negative evidence of the countess Oldi. Is that an accidental omission? Is the countess Oldi left out by accident? In this, too, does my learned friend, Mr. Brougham, agree with his other friends? I think it impossible that four intelligent men could have agreed upon such an omission. My lords, when I heard that the countess Oldi was not called, I said, there is a death-blow to the cause. I would have put the countess Oldi into the box at all hazards; by no possibility could I be worse off than by the omission of that important witness. But, my lords, if Bergami slept in the cabin, must not the countess Oldi know it? And if the countess Oldi did know it, why should she not appear to testify to that fact? Can any reasonable man devise a cause? has she not been examined, has not Mr. Vizard been near her, has she not been brought here for that purpose, does it admit of more than one solution, and that of this nature?—"I will serve you to any extent but that of stating what is untrue. I cannot come into court and state this;"—and therefore she is not brought. My lords, is it necessary to say more upon this? If it is, there is a host of witnesses: Hieronimus, Schiavini, Camera, Austin, Brunette, and two or three more; not one of whom have appeared for the purpose of proving this fact, which my friends contest, in the last stage of the cause, because they consider it a material fact—yet they do not dare to call the witnesses to make it out!

But, my lords, it is said, suppose they slept under the tent what is the inference you would draw from that? They were liable to interruption; Mr. Flinn occasionally lifted up the awning (as it is called), and when I mention the word "awning," let me remind your lordships how the case stands. It may have been an awning, but Gargiulo says, it was

closed all round, and that he carried pins for the purpose of securing it. Mr. Denman says, "If there is any military officer who hears me, he will be aware it is not a military tent; it was merely a simple awning." Mr. Hownam pretends to say, he believes it could be opened on the side; but Mr. Flinn states, that he uniformly lifted it up, and looked under it. But, my lords, the observation I am making is this—did lieut. Flinn, upon any one occasion, ever lift up the tent when he was not called by her royal highness? Never did he dare to interrupt them, unless he was called: Oh! but the hatches! they were liable to interruption—look at the conduct of lieut. Hownam! he ran up one night, he found the tent closed, and of course, he says, "I instantly withdrew." So that if any person had in the dark, supposing the hatches to be open by accident, done so, it was understood as a matter of course they were instantly to withdraw; and yet we are to hear of interruption, that it was absolutely impossible there could be any thing of this kind, because they were liable to interruption. But, my lords, who swears to the hatches being open? I find nothing of that kind; but I find, by the evidence of Gargiulo, that often in the morning he found the hatches closed. What would you draw as an inference from this? That the parties never, for a moment, supposed that any person would dare to intrude upon their privacy.

Now, my lords, let me direct your attention to a fact which, as connected with the other circumstances, is, if possible, of more importance than any to which I have yet directed your attention. Gargiulo swears to the circumstance of her royal highness and Bergami sitting upon a gun, and kissing each other. Paturzo swears to the circumstance of their sitting upon the gun, entwined arm in arm, and sitting also upon a bench. These facts are sworn to only by them; and my learned friend may, if he likes, contrast with their evidence the negative evidence of Flinn and Hownam. But, my lords, there is a fact of precisely the same description, which is sworn to by Gargiulo and Paturzo, which took place in the presence of Schiavini, and which he might have been called to contradict. Parturzo is asked, "Describe some of the situations?" "Sometimes sitting on a gun and the arm of one behind the back of the other, because the gun was small, supporting each other with the arm, sometimes Pergami lying on his back upon his small bed, and the princess standing near to his bed, leaning forward; but whenever this happened, the captain, now with one excuse, now with another, sent me away, because we are distant relations." Gargiulo is asked, "In what position have you seen Pergami lying on the bed?" "Pergami was lying on the bed on his back, her royal highness sitting near Pergami, the count was walking near the tent on the opposite side, and having received the order for closing the tent, count Schiavini delivered this order to me."—"Do you know by whose directions the tent has been closed on those occasions?" "Sometimes Schiavini or Camera, but always one of the suite." "Once I remember to have seen her royal highness stooping on the bed of Pergami, and to have desired Paturzo to go away, for it was not decent for him, who was a young man, to be present." "Count Schiavini remained always there." Now, my lords, how does the case stand? Count Schiavini is sworn to be a person observing this, and he is at this moment in London. Independently of the means of contradiction, there would be no reason to doubt the evidence of either of these persons; but, my lords, they are confirmed by the non-calling of Schiavini. My learned friends have, with lynx eyes, run through this evidence. Has not this singular fact attracted their notice? If it has, should they not have examined count Schiavini upon this most important transaction; and, not having called him, is it not perfectly clear that Schiavini does recollect the transaction, and that that is the reason he is not called? Then, my lords, without adverting to the extraordinary and rapid advancement of Bergami—without adverting to the fact of his family being all brought round the princess with the exception of his wife—without adverting to the contiguity of their apartments—here we have indecent familiarities proved negatively by the witnesses on their side, positively by the witnesses on this side, and those persons between whom these familiarities are proved are for six weeks after that time lying in a tent, side by side, in the manner spoken of by the witnesses! My lords, what is the doctrine laid down by the Consistorial Advocate, as he is called? If there are acts of indecent familiarity

satisfactorily established, and if you see the parties seeking opportunities on which a criminal intercourse may be enjoyed, "then," says the learned doctor, "the case is made out." Now, my lords, here are laboured opportunities sought for—here is an opportunity in the tent—here are those circumstances of familiarity spoken to by witnesses, against whom there is no reproach—my learned friend must, then, upon his own premises, come to the conclusion, that this is evidence to satisfy this tribunal that the crime of adultery is complete. My lords, this is the argument of my learned friends. I apply the facts to their argument. It is the conclusion they have themselves drawn. The Consistorial Advocate on the other side, who is of great authority on a point of this nature, has, by his own argument and his own position, completely established the case on the part of the supporters of the bill.

But, my lords, a singular argument is urged on the other side, which I know not how to meet—namely that the parties were never undressed. Mr. Brougham's phrase, in the course of the examination, was this: "Will you swear that her royal highness took off a stitch of her clothes, during the whole voyage?" and therefore, my lords, notwithstanding those faculties, notwithstanding all these apparent inclinations, lying side by side this, "singular looking stout built man," according to the evidence of the earl of Llandaff, because the clothes were not taken off, says my learned friend, Mr. Brougham, no legitimate inference can be drawn! I believe my learned friend said it in an under tone—he did not wish it to be heard. Did you ever hear, my lords, before any tribunal, particularly before an august tribunal of this nature, an argument so singular and so monstrous? But, my lords, as to the fact, Paturzo says, "I saw the Queen in a kind of morning-gown, looking out of the tent in the morning." What was the dress of the other party? A loose Grecian robe; and Dr. Holland, not as evidence in the case, but as information which nobody doubts, shows, that in the East this is the ordinary way in which persons sleep. And yet, according to the argument of my learned friend, Mr. Brougham, what is to become of the population of all the East, if his argument is to prevail? In our cold climate it has been remarked of the petticoat on the one side—

"Oft have we found that seven-fold fence to fail,
"Though stiff with hoops, and arm'd with ribs of whale."

On the other side, the Grecian robe—

"The leathern outside, boisterous as it was,
"Gave way, and bent beneath her strict embrace."

That, my lords, was the embrace of a woman of high fortune, of high character, to a man low in situation, compared with hers—Sigismonda and Guiscardo.

My lords; I hardly know how to deal with the kind of justification set up on the other side. The evidence on this subject resolves itself into two or three points extremely striking. My learned friends think it necessary to assign some reason for this circumstance. Some adequate cause must be assigned for this deviation from propriety; and when my learned friends think it necessary to resort to arguments and explanations of this kind, it shows the impression the facts make upon their minds. And if these excuses are shown to be futile—if they are ground to powder, and dissipated in the air—then we have, by the conduct of my learned friends, their own admission of the strength of the argument which is urged against them, "protection was necessary—it would not be proper she should sleep in the tent without him." Protection!! why? Had you reason to suspect any of the crew? No. Again, would not a person who lay in his hammock, within four or five feet of the tent, have afforded protection? Yes. Why lieut. Flinn was there. No, he was not; he was only there occasionally. But lieutenant Flinn might have been there; lieut Hownam might have beeen there, Necessity of protection therefore, is a most idle excuse. "But the sea might break over;" and then, when you talk about Schiavini, he would have been of no use—he was a landsman; and so Bergami, "strong built," according to lord Llandaff, is put there, though he is equally a landsman. If it were not for the extraordinary powers of my learned friends—if it were not for the language and imagery in which they clothe every thing, however absurd and trifling, so as to mislead the judgment, it would not have any effect. But the glaring splendor is abated—our organs have got into a proper state——we see the object—and we see the futility of the arguments my learned friends have so splendidly clothed, and so extravagantly embellished.

My lords; there is an observation touched upon by the attorney-general, which struck me as carrying with it irresistible force. What must have been the situation, and what the mutual reflections of these parties? This man, formerly a serjeant of dragoons, a courier, raised, elevated, a person so described, as he had been described lying side by side with her royal highness, what must have passed in their minds at the time? what must her royal highness have felt? Must she not have been struck with the extraordinary indecency of such conduct, to say no worse? Is she to be held up as a woman of extraordinary purity, of great character, of elevated sentiments; and are we to suppose that, under such circumstances, the indelicacy of her situation would not strike her with a force irresistible? Then, my lords, if that was so—if these images must have been present to her mind—would she have endured this for a moment? Could she have continued it? No, my lords; if she had been so weak and so foolish as to have submitted to it for a moment, the instant it struck her imagination, an alteration must have, of course, taken place. A woman of ordinary delicacy—a woman of no delicacy—a mere worm, must have felt that situation. My lords, if that be so, what is the conclusion to which that leads? that she could submit to that only from one motive, only in consequence of one connexion, only to gratify one desire, only to feed and influence an insatiable passion. How is it possible to give any other solution to such conduct? The direct evidence is strong; the moral evidence is, if possible, still more cogent and convincing. No man that does not wilfully shut his eyes, can refuse to come to this conclusion. I defy any human being to give any other colour to it—I defy any man, who has the soul of a man, and the energies and faculties of a man, to give any other solution to it. Faction may mislead—party may sway—we may wilfully shut our eyes—things may not strike us, because we do not look—but, if any man will, with a view to decide this case, look the facts in the face, it is impossible to avoid the conclusion to which they lead—that an adulterous intercourse did take place at the time to which I am alluding.

My lords; need I allude to that to which I referred when I had the honour of addressing you before—that, if all this is innocent, if it admits of any explanation—there is an individual who might have been called to your lordships bar, for the purpose of pledging his truth and his soul with respect to this fact—a person who is thus described, a respectable, humble, obedient, dutiful servant, and nothing more—faithful to his mistress, discharging all the duties, the proper duties, which she imposes upon him, faithfully, a man without blemish upon his character, upon whom they say no imputation is cast. He comes, my lords, towards this country; he arrives at St Omer's—her royal highness quits her carriage, a carriage, no doubt blazoned with the royal arms, and this man in that very carriage. Oh profanation! returns again, not daring to accompany his royal mistress to the shores of England! His sister comes. Vassali, the agent, is sent to meet her—he himself does not dare to appear. My learned friends, who are confident and bold in their assertions beyond any thing I ever before witnessed, say, how absurd! this is the first time among the numerous extravagant doctrines which have been laid down in the progress of this cause, that the person charged with adultery was called to appear at your lordships bar for the purpose of vindicating himself and the woman from the charge. My learned friends have industry beyond any thing I can describe; they have zeal, they have energy, they have talents; but in this respect, my learned friend, the attorney-general, has satisfied your lordships, that they are mistaken—that a case has recently occurred, where that very circumstance took place. My learned friend, Mr. Denman, says, "Oh, what reliance would you place upon such evidence?" My lords, I should like to see the witness; I should like to see him cross-examined; and if he did swear to the fact, and if he swore to it in such a manner as to lead your lordships to give him credit—if upon cross-examination he betrayed no symptom of failure, my lords, I should say, such evidence might make a great impression upon your lordships minds. I do not know whether the circumstances are so strong in this case as to outweigh the positive evidence of a man in that situation. I do not know, if he were so to swear, that your lordships would give him credit; but, my lords, this I know, that there is not good faith on the other side, when they assert, that all this was innocent, and when they so describe the individual, not to put him to your bar, that he may be so interrogated.

But, my lords, I am wasting your lordships time to touch upon such a point. The case is so clear, so demonstratively clear, so free from doubt upon this part of the transaction, that I cannot leave myself for a moment to doubt the impression it must make upon your lordships minds.

My lords: a word only with respect to the case at Aum. I leave the case of the polacre with entire and perfect confidence. I touch upon the case at Aum merely for this purpose. They run to the same tent at Aum, under the same circumstances as on board the ship. There was no need of protection—there was no sea—there was nothing against which it was necessary to guard. And why? because, in the outer tent, there were two servants, and because in that outer tent Bergami himself might have slept, instead of sleeping in the inner tent with her royal highness. When I mention the case at Aum, I mention it therefore merely for the purpose of fortifying, if it needed it, the case on board the vessel; because it shows the absurdity, the futility, and extravagance, of those reasons which have been assigned for so extraordinary a proceeding. My lords, I do not impute as a matter even of inference, that adultery did take place during those two days under the tent at Aum—it is possible it might not; but it is for this reason, and for this reason only, that it is a part of a general system of cohabitation; but if it stood alone, I should say, and every one must say, adultery must have been committed at the period to which I am referring. This is the use I make of the case at Aum.

My lords; I beg leave to direct your attention to what passed at the theatre San Carlos. According to the evidence on the part of the bill, it has been proved that her royal highness went to that theatre on a masquerade night, accompanied by Bergami, in a domino, and by Louisa Demont, and no other persons of her suite. They crossed the garden, went through a private door at the extremity of the garden, got into a hired carriage, and went to the theatre. My lords, I lay no stress whatever upon the circumstances which took place at the theatre. My object is entirely different. If it be established as a fact, that her royal highness, accompanied by her courier and her chambermaid, went privately to a masquerade, without the knowledge of any person of her household, what is the fair inference that you will draw from that circumstance, even if it stood alone, unsupported by the other facts in the cause? But, my lords, when I connect it with the other circumstances of the cause, they mutually throw light upon one another. My lords, did she not go to the masquerade in the manner I have described? That is established beyond the possibility of a doubt—it is established by the conduct of my learned friends, who have the management, the zealous management, of this defence. That they were at the masquerade is proved by the evidence of Dr. Holland. The charge has been made, and has now been in print for a period of six weeks; the attention of her majesty has been of course directed to the subject. If she was at that masquerade, her majesty must know by whom she was accompanied. Then, if she does not put before your lordships proof of the fact by whom she was attended, is not that confirmation strong that she was accompanied in the manner which Demont describes. It is in her power to disprove the fact, if the fact did not really exist. And, my lords, with this observation I dismiss this part of the case. It is a case strong in the inferences to which it gives rise, irresistible in the conclusions to which it would lead your lordships.

My lords; another circumstance to which my learned friend has adverted is, the breakfasts at Genoa and at Milan. It is in vain to say, "I repose no reliance upon the testimony of Majoochi and of Demont." If they, at the time of their giving their evidence, give you the names of other persons who were present at the time, and who might be called to contradict them, the mere circumstance of their vouching such persons satisfies me of the correctness of their statements. Demont says, that Louis Bergami and Majoochi waited; Majoochi says, that Louis Bergami or Camera waited. Your lordships therefore see, that if Louis Bergami and Camera are called and they deny the fact, they both of them contradict the testimony of Demont; but when this opportunity is given to the adverse party of contradicting her testimony and they do not dare to avail themselves of it, the conduct of these parties in withholding this evidence is strongly confirmatory of the truth of the original statement.

My lords; there is another fact to which I will shortly advert which might be contradicted but which has not been contradicted. I mean the transaction at Venice, with respect to the chain. The party is cross-examined at great length for the purpose of obtaining information such as may enable my learned friends to contradict his testimony in this respect—he tells you that the chain was purchased of a person of the name of Fano; he describes the residence of that person; he tells you with great distinctness, that when the chain was brought in, all the parties were about to get up from the table. Fano and all the persons present might have been called to contradict him. My learned friend has stated, that in one of the public papers there is an account with respect to the sale of this chain. My lords, if it has met the observation of any noble lord whom I am now addressing, I am sure that it can have no operation or influence upon his mind. My learned friend has not even spoken of such a circumstance—my learned friend who introduces the irregularity of Austrian gazettes to your lordships notice—who introduces the letters of baron Ompteda to your lordships—who in the course of proceeding is guilty of a thousand irregularities, does not produce any such certificate. I deny that such certificate exists; for I can look at the proof only as it is produced before your lordships. They might have produced Fano. No doubt, on a proper application, he would have appeared before your lordships. They might have called also every person at her royal highness's table at the time. At this time, my lords, Bergami was waiting behind the chair of her royal highness; she takes the chain from off her own neck, and puts it upon his; he returns it, he hands her out to the other room, and they part with a squeeze of the hand. My lords, I put this among those things which might have been contradicted, but which has not been contradicted. My lords another case of the same character proved by the witnesses on the other side, is, what took place at Bellinzona, at Lugano, and at the Devil's Bridge. At Bellinzona, Bergami, habited in the dress of a courier, is desired to sit down at the table with her royal highness; and, my lords, this is immediately after the journey to Venice. See how these corroborate each other. Did this ever happen again? Yes, at Lugano; again at the Devil's Bridge. My learned friend says the inn was small. Bellinzona, my lords, is a large and populous town. Why is he to be taken from the rest of the servants? Why not Hieronimus? Hieronimus was the Brunswick courier, connected with the family and long in the service—no such attention is paid to him; but the attention is exclusively paid to Bergami. My lords, connect all these circumstances together and see what is the conclusion to which they lead. Connect them with the circumstances on board the polacre and say whether they are not confirmatory of the case made out as to the facilities to which their arrangements opened.

But, my lords, Mr. Hownam says, that nothing he observed in the conduct of her royal highness towards Bergami, appeared in the slightest degree derogatory to her high station, dignity, and character. He is asked, "Have you never, to any person, said, that when you observed this extraordinary circumstance of Pergami being permitted to sit down with her royal highness in the dress of a courier, you remonstrated against it?" "No never." He positively denies it; but when he is pressed further, and the name of captain Briggs is mentioned, then it is, that he begins to aver—then it is that he first begins to say, "I do not recollect." When he is asked in general terms, he says, "No, never," with the utmost confidence. My lords, it may be said that when asked in general terms, he may have said, no, because he did not recollect the circumstance; but is it possible that such a conversation ever should have passed the lips of Mr. Hownam, and he should have forgotten the circumstance, when he states to your lordships that nothing had ever occurred in any degree derogatory in his estimation to the conduct and character of the Queen? Is it possible he should have observed this without its making a strong impression upon his mind; because it was in direct variance from that which he has sworn. But what are you to think of this, when you have a distinct and positive contradiction by a witness above all reproach, who was eulogized by my learned friends, and represented as a witness for the Queen. But the moment captain Briggs spoke to this fact, the manner of my learned friend Mr. Brougham, assumed a total change. Then it was insinuated, "Have you not dined lately with the king? where

did this conversation take place? Did you ever mention it to any person before?"—all those questions are put, insinuating that captain Briggs came here for the purpose of stating that which was untrue. My lords, it happens that captain Briggs did state it before, and long before this inquiry was instituted. The name of the honourable officer to whom he made the communication was mentioned—he might have been called for the purpose of contradicting captain Briggs. As to the insinuation with respect to the dinner at Portsmouth, it appears that captain Briggs commanding the guard ship, he in common with all the naval officers of that station, paid his respects to his majesty. These are the attempts made by my learned friends on the other side. As long as the witness appears to say nothing injurious to their side, he is classed with their witnesses, and represented as a man entitled to credit. The moment he gives evidence which affects them, then insinuations are scattered, then are attempts made to detract from his credit.

The Earl of *Liverpool*.—As it is now four o'clock, probably it will be most convenient to your lordships to adjourn.

Mr. *Brougham* said, he was convinced his learned friend, the solicitor-general, did not intend to say any thing harsh or unpleasant to him, but he had been instructed to insinuate, that he (Mr. B.) had so far trifled with their lordships, as to have brought out those two letters which he had tendered yesterday, after having them a long time in his possession. He was the more certain that his learned friend was merely instructed to state this fact, not only from his learned friends personal kindness towards him, but because he knew that some of his sagacious instructors had been industriously buzzing it about, that he had had those papers long in his possession. He now asserted that he had no knowledge of the existence of those letters before half-past eleven o'clock yesterday; but he was wrong in supposing that they only reached London yesterday. The person who brought them, arrived with them in London about half-past eleven the night before—an hour too late to go round with the letter, even if he had immediately received it, to their lordships several residencies. This fact might be proved by a reference to the Alien-office. He hoped this explanation would be taken as a true statement of facts, and that those who had dared to circulate a contrary one, would circulate it no farther.

The *Solicitor General* assured his learned friend, that he meant nothing personal to him, and that he gave him full credit for the statement he had just made.

Mr. *Brougham* was satisfied with his learned friend's assurance; indeed, he did not mean to ascribe to those who had instructed his learned friend any motives of personal hostility towards him. They no doubt thought the artifice they imputed to him one which they would have used as a perfectly fair one.

The House adjourned.

HOUSE OF LORDS.

Monday, October 30.

The order of the day being read for the second reading of the Bill, intituled, "An "Act to deprive her Majesty Caroline "Amelia Elizabeth, &c." the Counsel were called in. Then

Mr. Solicitor General resumed—

My lords; in pursuance of the course which I chalked out for myself when I had the honour of addressing your lordships on Saturday, it is not my intention to enter at large into the consideration of what took place at Naples; but there are some circumstances, as detailed in the evidence adduced on the part of the defence, which appear to me to be of a character so striking, that it will be impossible for me to pass them over without notice. My lords, the first observation that arises is on that singular walk on the terrace, and the still more singular conduct of Mr. Craven, as connected with that transaction. It is stated, that her royal highness was seen walking upon the terrace. In the course of the cross-examination, on a question put by one of your lordships Mr. Craven says, "I did not observe that her royal highness and Pergami touched each other." It is endeavoured to be impressed on your lordships minds, that there was nothing singular in that transaction; and yet, my lords, it is impossible to reconcile that opinion with the most extraordinary conduct of Mr. Craven, if that opinion be indeed well-founded. My lords, if there was nothing striking in the circumstance—if it was nothing more than the ordinary attendance of an ordinary servant upon his mis-

tress, I would ask, whether it is possible to suppose, that such a communication could have been made to her royal highness as is represented in this evidence. My lords, let me for a moment suppose it possible, that instead of having been attended upon that occasion by Bergami, she had been attended by Sicard, or had been attended by Hieronimus, can your lordships believe, that Mr. Craven would have thought it necessary to have made any remonstrance and expostulation? Is it not palpable, that there was something existing in the mind of Mr. Craven, either arising from what he had before observed, or what he had before heard, that induced him to caution her royal highness against a repetition of such conduct? My lords, it is stated, that the terrace was overlooked by the adjoining houses, and that therefore it would have been the height of imprudence for her royal highness to have walked there in an improper manner attended by her servant. But, my lords, looking through the whole of this case in every part of it, as in cases of a similar description and character, we always perceive, that there is that extraordinary mixture of caution and imprudence which almost always exhibits itself upon occasions of this nature. My lords, I do say, that it is impossible to reconcile the conduct of Mr. Craven with any other supposition than this—that either from what he had observed, or from what he had heard, there were suspicions in his mind that persons could of necessity misinterpret this apparent intimacy between her royal highness and Bergami, and that they might interpret it in such a way as to be in the extremest degree injurious to her character.

My lords; connected with this fact, I beg to direct your attention to the evidence of lord Llandaff, which is most striking, most remarkable. My lord Llandaff having stated that he knew Bergami, is asked, "Do you recollect the names of the other attendants at Naples, when you dined with her majesty?" "The servants? No, I do not."—"Can you state any circumstance which has impressed the name of Pergami on your mind, without your knowing the name of any other attendant at table?" "Pergami was a very singular figure, and I knew him by that. I recollected him by his figure, he was a strong looking man." Now, I beg to direct your lordships particular attention to the next question. "Is your lordship to be understood that you became acquainted with his name by remarking his figure, and from that circumstance asking what his name was?" "I never asked what his name was; but he being pointed out to me as Pergami, and from his figure, I did not forget him. I recollected him afterwards from that circumstance." My lords, why was Bergami pointed out to the earl of Llandaff? Is it possible to misinterpret this fact? Is it not obvious from this circumstance, that Bergami, as connected with her royal highness, was the subject of curiosity and inquiry, and that when lord Llandaff went into the room where Bergami was attending, Bergami was pointed out "that is Pergami!" or possibly in answer to a question put by lord Llandaff "Which is Pergami?" "That is the man." My lords, does this not speak for itself? Did he know the name of any other individual servant? Was any other servant pointed out to him or marked in any way from the rest? My lords; the remonstrance of Mr. Craven arose from reports probably in circulation—perhaps from what had actually taken place upon the terrace—from reports influencing, as I imagine, the mind of Mr. Craven, at the time he gave that extraordinary advice to her royal highness. My lords, it is from minute circumstances of this description, and applying to those circumstances the knowledge we have of the operations of the human mind, and the conduct of men in particular cases, that we deduce, perhaps with more certainty and more precision, the truth of our reasoning, than from circumstances which at first are more broad and more striking.

My lords; I beg leave to direct your lordships attention also to the evidence of lady Charlotte Lindsay. She is called by my learned friends, for the purpose of speaking to the character and conduct of her royal highness when at Naples, with reference to Bergami. My lords, a most extraordinary selection, a most unaccountable choice of my learned friends, if the story which they state, is correct—if the opinion which they profess to entertain of the conduct of her royal highness be indeed well-founded! She entered the service of her royal highness only about twelve days before her royal highness quitted Naples. Your lordships find, in that short interval, many remarkable circumstances occurring. If her royal highness and lady Charlotte Lindsay were to

walk in the gardens La Favorita at Naples, Bergami was the man to attend them—if they were to renew their walks at Civita Vecchia, Bergami was the man always to attend them—if they were to dine in private, the person to wait upon them, was Bergami! On the road, my lords, he rides as courier; and, such is the extraordinary condescension of her royal highness, that she takes from the carriage a bottle, hands it to Bergami, and he drinks from the mouth of the bottle, and returns it again to her royal highness; who, with equal condescension, receives it, and replaces it in the carriage.

Mr. *Denman*.—You had better read the evidence from which that appears.

Mr. Solicitor General.—My lords, my learned friends desire me to read the evidence. "Did he afterwards return the bottle to her royal highness?" "I cannot be positive. I fancy that he returned the bottle; but I cannot be positive. Whether he returned the bottle to the carriage or not, or whether he threw the bottle away I cannot be certain."—"To the best of your recollection, which way was it? Did he return the bottle, or did he throw it away?" "I rather think that he returned the bottle to the carriage." Can your lordships, then, entertain any doubt as to that having been the fact? And am I not justified, therefore, in calling upon your lordships to draw from that extraordinary circumstance the inference of a connection of the most extraordinary kind, existing at that time between her royal highness and Bergami?

My lords; her ladyship afterwards quits the service of her royal highness. She is asked, whether she did not state that it was a vast relief to her mind having come to the determination of quitting the service of her royal highness? She does not deny that such conversation passed. She is again asked, whether she did not state, that no woman, with any regard to her character, could continue in the service of her royal highness? To which she gives precisely the same answer. She is asked again, whether she did not quit the service of her royal highness in consequence of reports of so unpleasant and degrading a nature, that it was impossible to continue in her service? She admits that that circumstance it was, that operated upon her mind, and induced her to quit the service of her royal highness. She is asked, whether she had not stated, that had it not been from a desire to assist a particular individual to whom allusion is made, she would not at an earlier period, and long before, have quitted the service of her royal highness, to which she answered, "I think it is very possible I might have made use of those words. I do not recollect distinctly that I did, but I think it possible." So that her ladyship says, it is very possible she might have made use of those terms, and that it was in consequence of a desire that she felt to assist that particular individual that she was induced to remain in the service of her royal highness. Now, my lords, this is the evidence, given by lady Charlotte Lindsay, who is the only lady that is called on the part of the defence, for the purpose of speaking to the character and conduct of her royal highness. It will be for your lordships to say, looking at the whole of the evidence and comparing the one part with the other, how far you think that this testimony is serviceable to the cause which it is intended to support. My lords; some observations have been made on the conduct of my learned friend the attorney-general, as if he had betrayed some private confidence in dictating those questions which were proposed to lady Charlotte Lindsay. My learned friend has himself made some observations in reply to that charge. I know precisely the situation in which my learned friend stood. I know the honourable manner in which he acted; and the parties engaged in this transaction are indebted to my learned friend for the course he has pursued, and for the effect of those honourable feelings which, with respect to that part of the transaction, I know to have actuated his mind. My lords, I will not be more particular upon the subject; the occasion does not call for it.

My lords; there are other witnesses called, for the purpose of speaking to the conduct of her royal highness at Naples, Sir W. Gell and Mr. Craven. But, my lords, Sir W. Gell and Mr. Craven are merely the pageants of state. When a public dinner was to be given, they dined with her royal highness, and had the opportunity of observing her public conduct and deportment; but, when there was no company, you have it from lady Charlotte Lindsay, that she was in the habit of dining by herself in a private apartment, and neither Sir W. Gell nor Mr. Craven had any opportunity of forming a correct estimate of her conduct. I think therefore, my lords, the evidence of

Sir W. Gell and Mr. Craven, giving it the utmost effect to which it is entitled, cannot have much effect in this cause. My lords, of a character still more feeble was the evidence of lord Llandaff, a mere visitor to her royal highness. Lord Glenbervie stands in the same situation: he merely visited her two or three times a week at dinner; and Dr. Holland states, that he saw her only at dinner, and that in the other parts of the day, he pursued his own professional studies. Another gentleman, Mr. Mills, is called to speak to the conduct of her royal highness, so far as it came under his observation, he having visited her at the Villa Brandi, and once at Pesaro. My lords, this is all the evidence of this character and description which has been adduced by my learned friends: but, let us look on the other side, and let us ask what has been omitted. It is not so much from what has been produced, as from what has been withheld, that I draw my inference on this part of the case. My learned friends have felt the necessity of calling some evidence of this description, and if so, why have they not called that which would have been the best evidence—I mean lady Elizabeth Forbes? She resided with her royal highness during the whole time of her continuance at Naples. Lady Charlotte Lindsay came only twelve days before the departure of her royal highness, and she is the witness who is preferred. Lady Elizabeth Forbes, whose window commanded the terrace to which allusion has been made, and who continued in the service of her royal highness at Naples for four months, is not produced as a witness before you.

At Genoa, lady Charlotte Campbell joined her royal highness. She continued with her for a considerable portion of time. She afterwards followed her to Milan, and continued for a short time in the service of her royal highness in that city; but she is not called. Now, my lords, my learned friends make it a matter of reproach to us, that we have not called those witnesses—from the beginning to the end, it was stated, that it was our duty to do so. Is it meant to be said, that it was the duty of the attorney-general and myself? That never can be so stated; because, before we had any thing to do with the conducting of this proceeding, the proceeding was already instituted, the evidence was prepared; and, if after that, we had applied to those individuals, the natural witnesses on the part of the defence, I know what clamour would have been excited, I know what language would have been held, by our adversaries. Your lordships recollect that some application was made to Messrs. Hownam and Flinn, not as to the merits of the trial, but merely as to a single insulated fact, namely as to the residence of the English seamen, that had been on board the polacre. Even that was made the subject of insinuation, and of charge; and if, therefore, after this proceeding was instituted, my learned friend and myself had come into contact with the natural witnesses to be called on the part of the defence, to what species of attacks we should have been exposed by the zeal and eloquence of my learned friends!

But, my lords, it is said, they ought to have been examined before; and that is a charge not personally directed against my learned friend and myself, but directed against another quarter. My lords, is it not clear, that any application to the servants of her royal highness, for the purpose of ascertaining whether she had misconducted herself, must have been fruitless and unavailing? Would they have betrayed to other persons the secrets of their mistress? Would they, as volunteers, have stated any thing to her prejudice? Every man conversant with the world, every person knowing any thing of the particular individuals to whom I am now referring, must know, and must feel that their lips must have been sealed upon the subject, and that it would have been quite impossible to have obtained any correct information from them. But my learned friends think, that at all hazards, we should have called them as witnesses. My lords, I appeal to one single fact as a decisive answer to that statement—look at the evidence of lady Charlotte Lindsay—observe the impression which it would make upon your minds at the close of the examination in chief, and contrast that impression with the impression now upon your lordships' minds at the close of the cross-examination. Your lordships know, that if we had called as witnesses those honourable persons, we could not have cross-examined; we must have taken the statement, such as it would in the first instance have appeared, and the truth would of necessity have been concealed. If we, for instance, had examined as our witness lady Charlotte Lindsay, do your lordships

suppose, that those facts now disclosed in the cross-examination, would ever have appeared upon your lordships Minutes? Is not this, therefore, an answer to all the arguments which have been so triumphantly urged on the other side?

My learned friend, Mr. Brougham, says, that we are conducting this case contrary to all those rules by which great cases are conducted in courts of justice—that we are conducting it upon the little and narrow scale upon which trifling disputes at Nisi Prius are conducted. My lords, I deny that. It has been confidently stated on the other side, in the first instance by Mr. Brougham, and the statement of Mr. Brougham has been re-echoed with great eloquence and zeal, by the learned gentlemen who have followed him; but I deny that the principle they have laid down, is a correct principle on subjects of this nature. The question is, whether the witnesses are naturally the witnesses for the prosecution, or for the defence; and it would be the height of absurdity in those persons conducting the prosecution, to call witnesses with whom they had no communication; who are connected with the adverse party; who would be disposed, as far as possible, to assist and support the interest of the adverse party. It would be the height of extravagance and folly to adopt such a course of proceeding. But when we are told, that the learned judges would have reproved us, if we had pursued such a line of conduct in any criminal case, my lords, I deny that position. I recollect an instance of a trial for the greatest offence known to our laws, the trial of Thistlewood for high treason at the Old Bailey; and I shall beg to state what was the course pursued upon that occasion. A witness of the name of Adams was called to depose against the prisoner: he deposed to certain conversations, which he stated had taken place in the presence of the prisoner. Was it ever supposed to be incumbent on the counsel for the prosecution, to call all the persons stated to be present, to confirm the testimony of Adams. No, my lords, we said, "We have proved the charge, our witness, Adams, states, that such and such conversations took place in the presence of such and such persons with the prisoner; the prisoner may call those persons to contradict them; and if he does not call them, he, in effect, confirms the testimony of the witnesses." According to the argument of my learned friend, my lord chief justice, the chief baron, and the learned judges, ought instantly to have interposed, and said, "No, sir, it is your duty to call every witness stated to be present at the conversation." But, my lords, when the lord chief justice came to sum up the evidence to the jury, his language was to this effect: "An objection is made, that those witnesses are not called"—for it is a common and usual objection, my learned friends are not entitled to the praise of novelty upon this subject—"the observation, I am sorry to say, on the absence of the witnesses, presses with greater force on the prisoner, because there are three or four persons present at the conversations mentioned by this witness, either of whom would be a competent witness to contradict Adams." So that your lordships see, so far from adopting the sentiments and opinions of my learned friends, the learned judges, upon that occasion, pursued a line of conduct directly the reverse. Where a witness who stands in some degree of suspicion, on giving his evidence, vouches other individuals who were present on that occasion, he confirms his testimony, and you will place considerable reliance upon it, before the season arrives for its contradiction; but when there has been an opportunity for calling those witnesses, and they are not called, their absence is the greatest possible confirmation of the prosecutor's case.

My lords; I thought it necessary to go a little out of my way for the sake of making these observations; for, from the beginning to the end of this proceeding, for a period now of nearly three months, we had this most extraordinary, but not altogether novel doctrine rung in our ears—stated, in the first instance, with extraordinary powers of eloquence, by my learned friend, Mr. Brougham; followed in the same style by Mr. Denman, Mr. Williams; and Dr. Lushington also commenting upon it, and insisting upon this position, with great constancy and vigour. My lords, it is a position utterly untenable: if acted upon, it would defeat the very ends of justice, it would discredit almost every prosecution which ever was instituted. I enter my protest against it, I say it cannot be supported—it is a doctrine pregnant with extravagance and absurdity.

But, my lords, as I have stated, with the exception of two or three witnesses,

speaking only to a scanty portion of time, the whole testimony is a blank in that respect. Perhaps I am incorrect—Mr. Hownam is called for the purpose of speaking to the character and conduct of her royal highness, and to the manner in which she conducted herself—whether there was any thing degrading in her character and conduct. Mr. Hownam distinctly says, that there was not. But how are we to estimate the reliance to be placed, as to points of this nature, upon the testimony of lieut. Hownam?—Lieut. Hownam tells you, that he thinks it was not at all degrading to sit down at the same table with her courier, dressed in the livery of a courier. The splendid uniform, as he chose to call it, gave a colour to the case, that rendered it not at all reprehensible. My lords, when I refer to that fact, it will be for you, after he has so committed himself, to say what reliance is to be placed upon the sentiments and feeling of Mr. Hownam, as to what is graceful and proper, and consistent and decorous in a person of the rank and station of her royal highness. His evidence may be struck from the notes, as far as relates to any support it gives to the character and conduct of the Queen.

But, my lords, you have two other witnesses—singular witnesses to have been called for the purpose—Vassali and Olivieri, soldiers in the army of Buonaparté, —the only two remaining witnesses who are called—for what? For the singular purpose of speaking to the propriety of the conduct of her royal highness towards Bergami, and of Bergami towards his mistress! My lords, what an unaccountable selection! Would it not have been better for my learned friend in this case to have said, "I will call no witnesses—I will let the high station and illustrious descent of the princess of Wales speak for themselves—I will oppose that as a barrier against all the countervailing testimony you bring against it?" That would have been a noble and dignified proceeding; but, to descend so low as to take characters from such men as Vassali and Olivieri it is extraordinary! It is strange my learned friends should be blind as to the effect of such a course of proceeding, and such an attempt to mislead the judgment of such a tribunal as the present! But, my lords, there are some other circumstances equally remarkable. There is not a single woman who has been called, except lady Charlotte Lindsay. We have heard something of countess Pino—we have heard something of the wife of the prefect Tamasia—we have heard something of the wife of Cavaletti—persons about her royal highness; but though we have heard their names frequently, those persons females, always the best judges of the propriety of female conduct, have not been produced before you. We have an order upon your lordships table for the marchioness Segratia, who has arrived in this country; but she has not been produced! My lords, how are we to account for this extraordinary mode of proceeding? Is it not an admission, that the evidence they have it in their power to produce would not assist their case?

My lords; a great deal has been said about the evidence of Majoochi. I trust, therefore, I shall be indulged in making a few observations upon his testimony. I do not mean to go at length into the circumstances; because it has been so sifted and canvassed by my learned friend, the attorney-general. With respect to the contradictions of his evidence, they are of the most perilous description. He states a continued dining at Genoa, and from that place as far as he recollected. That these parties did dine together is clear beyond the possibility of doubt; and whether it began at Genoa, or the Villa d'Este, or at Bellinzona, is matter of little consequence. He had no motives to misrepresent, and it would be too much to infer from that circumstance, that there was an intention on his part to deceive you. My lords, I may explain it this way—they breakfasted together at Genoa, and you have it in the evidence of lieut. Hownam, that at Genoa it was, that Bergami first ceased to wait at table. That may account for the suspicion in his mind; but your lordships recollect that her royal highness frequently dined privately at Genoa, and there is no evidence to show, that on some one or other of those occasions, Bergami did not dine with her. There is no evidence, therefore, to contradict the evidence of Majoochi. But I do not think it necessary to resort to that explanation—it was a mistake, perhaps; but there was no motive for the mistake, and it would therefore be too much to say, that it throws a discredit upon his testimony.

My lords; there is another observation about the "secret" stair-case. Every body must know that the expression im-

ported nothing more than a back staircase; and therefore to call Mr. Hownam to swear it was not a secret stair-case leading to apartments, appears to me a futile attempt at contradicting Majoochi. But, my lords, another circumstance is stated—that he had been continually in the habit of waiting upon baron Ompteda, and that he did not recollect having waited upon him till they came to the Villa Villani. Your lordships recollect that the evidence was, that he sometimes dined with her royal highness in company. There is nothing, therefore, to lead him particularly to distinguish Ompteda; but they came to the Villa Villani, where they were living by themselves, and where the introduction of a person of the rank of Ompteda would make an impression upon his mind. Then it is, that he says, "I remember his being at the Villa Villani. I remember him perfectly."

Mr. *Denman*.—Where is that?—It is to the contrary, indeed.

Mr. Solicitor General.—This is the passage—"Did you ever see the baron Ompteda?" "I do not remember the name."—"Did you ever, during the year after the long voyage, see a German baron at the Villa d'Este?" "In the house Villani, I saw him. He was a Prussian." It is quite clear he was speaking of the baron Ompteda, and no other person.

But, my lords, an attempt has been made to impeach the testimony of this witness, in consequence of some contradiction arising out of the evidence of Carrington. Carrington, who has been introduced to you with so much ceremony, by my learned friends—Carrington, who is stated by Mr. Denman to have been "born a gentleman"—he is the individual who is brought here for the purpose of overthrowing the testimony of Majoochi. Born a gentleman! My lords, how does that apply to a man who states himself to have had the opportunity of placing himself in the situation of a gentleman, namely, in the situation of an officer in his majesty's navy, which might have led him, in a certain course of events, to the highest possible distinctions, abandoning that offer, and consenting to become the servant of another gentleman? Is that the feeling, and are those the highest possible characteristics of a man "born a gentleman?" But he was poor; he had not wherewithal to sustain himself in that situation. My lords, how would a man, born a gentleman, and with the feelings of a gentleman, have acted upon that occasion? He would have said, "Whatever may be my poverty; however abject my situation in those respects, I will endeavour by the purest, the most upright, and the most unexceptionable conduct, to make amends for that, and to obtain the respect of those with whom I am associated." Those would have been the feelings of a man entitled to the encomiums bestowed upon him by my learned friend: he would not have shrunk from so handsome an offer, and have condescended to have become the valet of sir William Gell. My lords, those censures so indiscriminately poured upon the witnesses on our side, when they come to be examined, your lordships see how absolutely untenable they are; but when your lordships come to examine the evidence of this man—see how fallacious it is!—It is something that passed two years before—it is first of all stated in the kitchen; then it is stated in the court-yard, in such a way, that when your lordships come to sift it, the story has all the appearance of being a fiction and a fable. But, my lords, let us suppose this conversation really to have passed, and see what inference can be drawn from it.—Is a man to be condemned because he does not recollect a conversation that passed three or four years before? Is that to destroy his credit with your lordships? Is no allowance to be made for the frailty of memory? If that be the position of my learned friends—if that be the doctrine we are holding here—what becomes of the testimony of lieutenant Hownam? What becomes of his want of recollection, with respect to a conversation, which, if it had taken place, never could by possibility have escaped from his recollection—a conversation, my lords, with a man of education? Majoochi is a man illiterate. Let me ask your lordships, then, even if you suppose this conversation did take place, whether any fair and reasonable mind can possibly come to the conclusion, that because he states he does not recollect the conversation, therefore he comes here for the purpose of misleading you? But, my lords, why should he have denied the conversatoin? Did it reflect any stigma on his own character? Had he any motive to conceal it. He is supposed to have taken the part of his mistress—to have entered into a personal contest upon the subject of the conduct of this indivi-

dual; and, if he did so, what foundation could there be for his denying that which it did honour to his feelings to own?

But, my lords, when a witness is called for the purpose of contradicting the testimony of another, it becomes important to consider in what situation that individual himself stands; and I beg to recall to your recollection, that this witness, Carrington, distinctly and positively contradicts himself; and finding he had contradicted himself, he afterwards endeavours to escape out of that contradiction, in a manner which I am sure your lordships will not approve. He is contradicted by the express and positive testimony of sir John Beresford. My lords, he is asked, "Were you in any other ship in his majesty's service, than the Poictiers?" According to my apprehension and my understanding it would be impossible to misapprehend that question. The witness answers, "No." Then he is asked, "You are to be understood, that you were never in his majesty's service before?" alluding to his service on board the Poictiers; to which he answers distinctly, "No." His attention is twice directed to the point, and twice he swears distinctly, "No." Now, my lords, it is said, what interest could he have had in stating that in the first instance which was incorrect? He states, that he was first in the merchant service, afterwards in the land service, and that afterwards he served on board the Poictiers. It turns out, that he had been originally impressed into the service, and handed over from ship to ship till he came to the Poictiers. A little feeling of vanity perhaps, and not considering it of importance, might induce him to say, he had entered on board the Poictiers; but it is not that upon which I rely. When he finds he has stated that, in his original examination, which is false, what I rely upon is, his endeavouring to explain it in such a way as he must have known to be untrue. He had stated carelessly, foolishly, and improperly, that which was not true—he is then asked, "How came you to say so," and he says, "I understoed the question to apply to my having been with sir John Beresford as a midshipman." My lords, I will ask any person with common understanding, and common apprehension, to look at these Minutes, and say, whether it is possible he could have so understood the question; and, if he could not have done so, this attempt to explain falsely and incorrectly, the error into which he originally fell, appears to me to be of such a character, as greatly to impeach the credit due to his testimony.

But, my lords, he had also stated, "sir John Beresford told me I was to be upon the quarter-deck. I told him I did not wish to be on the quarter-deck; for I had no friends or money to support me on the quarter-deck; that I would wish to leave the service, if leave could be got." Now, my lords, nothing can be more precise and distinct than that. It was a circumstance which must have made a deep impression upon his memory. Observe, my lords, what statement sir John Beresford makes—"Did you ever tell Carrington that he was to be on the quarter-deck, and do you recollect his replying, that he did not wish to be on the quarter-deck, for he had no friends or money to support him on the quarter-deck?" "He never told me any such thing: and after I knew he was to be sir W. Gell's servant, it was very unlikely that I should propose to him to be an officer in the service." Your lordships will understand that explanation in this way—There was never any intention that he should be a midshipman, except for the purpose of transferring him to the Thisbe, that he might quit the service; and therefore his attempt to impose upon your lordships by saying he had the offer distinctly made to him, that he should be on the quarter-deck in the character of an officer, turns out to be false and unfounded. Another question to sir John Beresford is this: "Carrington having informed this House, that he did not go upon the quarter-deck for some time after he joined the Poictiers, was he ever on the quarter-deck of the Poictiers?" "He never was, except when his duty as quarter-master led him there." So your lordships find, that he is distinctly contradicted in all those important facts. This, therefore, is a witness contradicting himself, attempting an explanation which is inconsistent with itself, contradicted by the respectable evidence of sir John Beresford. And yet he is called for the purpose of impeaching the testimony of another man! He may have been a most excellent seaman; but, in the evidence he has given, he has conducted himself in such a way as not to entitle himself to credit—and certainly he does not place himself in such a situation as by his evi-

dence to overturn the evidence of another man.

My lords; there was another person mentioned by Carrington as having been present at this supposed conversation, a person now in this country, and who has been at Mr. Vizard's office, for there the witness states that he saw him. He has of course been examined by Mr. Vizard; but he is not called for the purpose of aiding and supporting the evidence of Carrington. My lords, if the evidence of Carrington had been without blemish, and he had been called for the purpose of contradicting another individual, there might have been a conflict, a balance in their testimony, and you might have said, "If there be another witness to the same fact, and you wish satisfactorily to establish that Majoochi has stated falsely upon that part of the case, it would be your duty to call that second witness;" but when the evidence of Carrington is attacked in the manner in which it has been, and your lordships feel, as I am sure you must do, that no reliance can be placed upon it, then I ask, what excuse can be offered for not calling this other witness, who is stated to have been present at the time? and does not the withholding that witness, under those circumstances, show almost to demonstration that the account given by Carrington is not true? My lords, we threw out, in the course of this inquiry, challenge after challenge to my learned friends, to produce this witness. We were most anxious to have seen him, Francisco Serra would have delighted us; but my learned friends have withheld him, and they have, no doubt, some reasons for not producing him; but not having produced him, relying on the evidence of Carrington to impeach the testimony of Majoochi in this respect, I apprehend your lordships will think that no sufficient impeachment has been made, and that this evidence can have no sufficient operation in the cause.

My lords; a great deal has been said upon the answers which, from time to time, were given by Majoochi to questions which were put to him. "*Non mi recordo*" was the phrase on our side of the case—a softer and more courtly phrase, "*non mi sovviene*," has been adopted on the other side. My lords, I beg leave to observe, that when a person is speaking of transactions which took place several years ago, and when his attention is directed to several facts, he may recollect those facts distinctly, though he may forget other facts of a similar character and description, recalled to his recollection for the first time in a foreign country, put through the medium of an interpreter, subject to all the influence and impression of an assembly constituted like this; and therefore, taking his evidence alone, without any further application, it appears to me, that his not recollecting some facts which were of the same class and character as other facts he had stated, affords no legitimate basis on which you can conclude he has stated that which is false. But, when we look to evidence on the other side, of persons in the highest rank and situation, of whom I wish to speak with the utmost possible respect, and it is a part of my argument to treat them, in this view of the case, with the utmost possible respect—persons of high station and rank—not speaking distinctly, but applying the term, "I do not recollect," to facts of the most striking character, to facts which one must suppose must have made so deep an impression upon their minds that they never could be forgotten—when we find such persons as I have described, of education and reflection, of rank and station, not recollecting, and refusing positively to swear to facts of the character which I have described—what argument can legitimately be urged against Theodore Majoochi, that he, with respect to facts of a comparatively less striking nature, has stated more frequently, in consequence of the length of the cross-examination, that he did not recollect such and such circumstances? My lords, let me not be misapprehended for a moment. I entertain the most unfeigned respect for those individuals to whom I am now alluding. Great allowance is to be made for the infirmity of human nature, for the failure of memory, for the sudden putting of questions on points to which the attention of the party has not been directed; and I am quite sure that when any of those distinguished individuals—need, I say, under the solemnity of an oath—say they did not recollect such and such circumstances, they state that which they knew, felt, and believed to be true. I cast no imputation upon them; but then I say, that the same charity which is shown towards those illustrious individuals ought to be equally applied to the more humble individual whose case we are now considering.

But, my lords, the extraordinary way

in which this witness was treated—the manner in which he has been run down—not in this House I will not say—but by the public press of the country—the false statements that have been made with respect to his conduct—are matters of serious complaint. He is dragged here to the bar, in consequence of the sudden receipt of letters, and questions were put to him as to a conversation supposed to have taken place with a Mr. Johnson travelling in a coach from Gloucester to Bristol, with a Mr. Hughes, a banker's clerk, with a Mrs. Hughes, his mother, the housekeeper of Mr. Hyatt—he denies that such conversation took place; and, because my learned friend conducting that cross-examination, holds letters in his hand from some or one of those correspondents he has throughout the whole country, it is assumed, for a period of two months, that Majoochi has stated that which was false. But your lordships find, that when the day arrives—when my learned friends might have called those witnesses to your bar, to contradict this evidence, not one of them is produced! Again, my lords, this witness is called up, for the purpose of raising an inference in your lordships minds with respect to his conduct, and the motive by which he is influenced in giving his evidence here. My learned friend, Mr. Brougham, says something about Carlton-house—a house with pillars and sentries; and instead of coming at once to the question, and saying, "Did you go to Carlton-house?"—for the purpose of making an impression upon your lordships' minds, if possible, and upon the mind of the country, it comes out in a circuitous way, that he was at Carlton-house, for that he went to receive dispatches to take abroad, and was introduced to a person whose language he did not understand, and who did not understand the language of the witness!

But, my lords, I wish particularly to direct your particular attention to the questions that were put by my learned friend, with reference to a witness called Camera. "Did you not also make an application five or six times to Camera to be taken back into her royal highness's service?" Softly," he says, "on this point. The first or second time that Camera arrived at Milan, Camera sent his son for me, and Camera told me, and I remember it as if it was now: 'Theodoro Majoochi, do not enter into any service, because her royal highness wishes to take you back, and I shall pay you.' This conversation must be put down, such as it is, and I beg to be allowed to speak. Camera told me, 'Theodore give me back the certificate of your good service, give me back such paper, and I will tell to her royal highness that you have not taken a further engagement; that you have not been in any further service, and she will pay you for the whole time you have been out of service, and all the damages or losses you have suffered;' and I told Camera—Camera give me back my paper, because I had already given him my paper; because," he says, "rather than go to serve her royal highness, on account of the persons that are about her, I will go and eat grass." My lords, I did suppose that Camera would be called, for the purpose of contradicting this conversation. It does appear, then, that there was some attempt to get back Majoochi into the service of her royal highness: it does appear that there was some desire to get back that certificate which was produced at your lordships bar. But although all these attempts are made; although these multiplied questions are put to the witness, Camera is not called, and we are to take the statement, therefore, that appears upon the Minutes as made by Majoochi as distinct and correct. Camera is here, in the service of her royal highness, and might have been called for the purpose of contradicting this evidence. Why so anxious to get back Majoochi into the service of her royal highness? why this application? your lordships can easily understand, if the case which is now before you is founded in truth. Your lordships may possibly connect it with that which, in the course of these proceedings, in an early stage of them, showed itself at your lorships bar. But, what I rely upon, my lords, is this—that a false impression has been attempted to be made on your lordships, by putting those multiplied questions, and afterwards not following them up with any contradiction. A false impression has been attempted to be made on the minds of your lordships, and also upon the mind of the country, with respect to the credit to which the testimony of Majoochi is fairly entitled.

My lords; my learned friends, in attacking the evidence of Majoochi, have relied upon another phrase—"Non so." I do not know. "Più no," more no than yes. "Non mi ricordo," I do not remember. And my learned friend, Mr.

Denman, gravely closes his observations upon the credit due to the testimony of Majoochi, by reading that passage, and saying that it was quite sufficient for his purpose. My lords, I beg you to refer to that passage, and see what it imports—"I remember to have received no money when I arrived at Milan—according to my recollection I did not. I am not certain; I am more inclined to think that I did not than that I did; but I do not precisely remember." That, my lords, is the meaning of the passage upon which so much reliance has been placed, and with reference to which, my learned friend concluded the observations he made upon the testimony of Majoochi. My lords, I beg you then to consider, that Majoochi is not substantially contradicted in any thing which is material—in any thing which is not open to fair explanation, to those explanations which have been given by my learned friend the attorney-general—that the attempts to contradict him have altogether failed; and that the general observations upon his testimony are not entitled to much weight.

My lords; I beg leave for a moment now to direct your lordships attention to something which fell from Dr. Lushington with respect to a passage which, upon a former occasion, I had the honour of reading to your lordships. I mean the judgment of sir William Scott in Loveden *v.* Loveden. My lords, in stating that passage to your lordships, I stated distinctly that I had nothing to do with the facts of that case, because they bore no analogy to the present; but I stated the doctrine for the sake of the doctrine itself. And my learned friends would lead your lordships to believe, that it is a doctrine only applicable to that particular case, and arising out of the facts and circumstances of that particular case. My lords, that I utterly deny. I stated that it is the general doctrine; and that the facts of the case were afterwards applied to that general doctrine, and shown, by that intelligent and learned judge, to range themselves with the doctrine so stated; and, if your lordships will allow me to refer to that passage, you will find I am perfectly correct in the view I take of it. The learned judge says, "There is no necessity to state the rule of evidence applicable to this subject, except briefly. The fundamental rule is, that it is not necessary to prove a direct fact of adultery. It could not be so proved in one case in a hundred. It must be deduced by inference leading to a just conclusion. If this were not sufficient, there would be no protection for marital rights. It is not necessary to enumerate the various grounds of inference. Many are mentioned in the ancient writers. But, besides those, there are many others depending upon general manners and other incidental circumstances, which are continually changing. They must be such as to lead a reasonable and just man to the conclusion of guilt. It must not be a rash conclusion, or founded upon artificial reasoning. It must not be different from what would strike a plain man. This is not a matter of technical rule. Upon such subjects the rational and legal conclusion is the same." Now, I ask your lordships, with confidence, whether I am not correct in stating, that this is laid down as a general rule of law applicable to subjects of this kind; that the learned judge so stated it, and so intended to state it; and, having done so, applied the facts of the case in such a way as to see whether they fell and ranged themselves within that general rule? To suppose, therefore, with my learned friend, Dr. Lushington, that that is a principle applicable only to a particular case, is to endeavour to mislead your lordships upon a subject so plain that it is impossible that any man, when he comes to read that judgment, can entertain a possible doubt. My learned friend, Dr. Lushington, has stated—and we have had many statements made in the course of this inquiry—he has stated, with great confidence, that there was no instance of a bill of divorce where the female was above forty-five years of age. My lords, it is not on account of the importance of that position, or doctrine, that I now mention it; but for the purpose of showing how rash my learned friends are in all their statements in their conduct of this inquiry. I find, no farther back than the year 1816, a case in the court of Arches, Barlow *v.* Barlow, in which the age of the female was forty-six, and where the act of adultery had been continued for a period of six years. My lords, I do not state this on account of the importance of it, or because it has any application to the subject generally; but for the purpose of showing how cautious we ought to be in receiving the confident statements made by my learned friends on the other side—

how careful we ought to be in placing reliance upon the facts which they state, or the decisions to which they refer; and that we ought to be upon our guard—perhaps your lordships ought to be upon your guard, with reference to the statements made on our side, when they are not vouched by authorities; as well as with respect to the statements on the other; but I entreat your lordships not to confound statement with proof. That which is established by evidence, and by an appeal to authority, can alone govern your lordships minds in the decision of this great and important question.

My lords; I have stated, that I do not intend to go into detail on the evidence of Demont, as to what took place at Naples; but, my lords, to the two points in which her evidence is opposed, and by which it is supposed to be destroyed, I shall, for a moment, address myself. She states, that it seemed to her, that her royal highness returned early from the Opera. Sir W. Gell has stated, that the return from the Opera was late; but I beg to direct your attention to the evidence of Mr. Craven in that respect—evidence throughout of a much more cautious and accurate description than that of sir W. Gell: for he says, "I should think it ended rather later than usual." You are to destroy the evidence of Demont, who states that it appeared to her to be earlier than usual, when all that is said by Mr. Craven is, "I should think it ended rather later than usual." My lords, it is most extraordinary to suppose that this conflict of testimony with respect to this particular—the one saying it appeared to be later, and the other that it appeared to her to be earlier than usual—is to lead your lordships to suppose that Demont came here for the purpose of deceiving you.

My lords; the other point to which I allude is, the dress at the masked ball; and I confess I am quite surprised, when I refer to the evidence of Demont, at the observations made upon that subject. Demont does not say, that the dress was indecent. She is asked to "describe the manner in which her royal highness was dressed in this character of the Genius of History?" "She had her arms bare, and her breasts bare, and the drapery in the same way as people represent the Muses, or the Genius of History." Now, my lords, with respect to the testimony on the other side—Sir W. Gell tells you, that there was a considerable expectation of something that was to appear in the adjoining room—that "the door opened, her royal highness descended, and placed a crown upon the bust of Murat; the door instantly closed,"—he says "it all passed as quick as I am now describing it."—"It was like a flash of lightning." Mr. Craven says, that he does not remember this dress so well as the other two, because he saw her royal highness only for an instant; but it did not strike him as indecent. So that this individual had but little opportunity to observe the dress; but, according to Sir W. Gell, "it was like the Curiatius in the British Museum, or like Mr. Hope's Minerva." My lords, those figures have their arms bare. So far it is correct: but then my learned friends lay stress upon the term "breasts uncovered." Now, my lords, that is treating Demont most unfairly; because, I beg leave to recall to your lordships recollection what passed with respect to the picture of the Penitent Magdalen at Catania—the expression was, that the "gorge" was uncovered; which was, in the first instance, translated, the breasts were uncovered. Upon which the other interpreter said, the term "gorge" is equivocal, and may mean either the neck, or the breasts; and she repeated it again, and showed that it came half way down the breasts. My lords, should we not deal uncharitably with a witness if we did not give this the same interpretation in the place to which we are alluding? These are the two striking facts alluded to, for the purpose of overthrowing the testimony of Demont; but, my lords, when we are talking of the evidence falling short of the opening, my learned friend cannot have forgotten the important fact stated by Mr. Williams. It was of great importance to ascertain whether, on the second night of her royal highness' arrival at Naples, she slept in her own bed; and accordingly, Mr. Williams stated, that he should prove, by one of those fortunate accidents that sometimes occur, for the purpose of detecting perjury and upholding truth, that her royal highness slept in the small travelling bed she had usually occupied; and that was to be proved in a manner the most distinct and satisfactory—the windows of the apartment were blown open in a storm, a servant was called to shut them, and that servant saw her royal highness in the bed. That was the statement made by Mr. Williams. The servant is not

called—no attempt has been made to establish this fact—and then my learned friends, on the other side, have the grace to complain, at the proof adduced by my learned friend, the attorney-general, does not correspond with the opening which he made before your lordships. Perhaps, my lords, I can explain why that witness is not called. In answer to a question I put in cross-examination to Scard, it turned out, that it was the night of the arrival at Naples, which was very windy and rainy; and I have reason to believe, that it was on the night of the arrival at Naples that this transaction occurred, which they were desirous to transfer to the second night—a point of time extremely material to the evidence in the present cause.

My lords, it is impossible, when we are talking of Naples, not to be struck with the extraordinary change between the situation of her royal highness at Naples, surrounded by respectable persons of her own country, or of her adopted country, and her situation at Pesaro. When at Naples, my lords, we find lady Elizabeth Forbes, lady Charlotte Lindsay, sir W. Gell, Mr. K. Craven, and captain Hesse. My lords, at Pesaro we find her surrounded and attended in a most extraordinary manner—we find there, as her lady of honour, and heroine lady of honour, madame Oldi, that lady of not very fascinating manners, as described by the earl of Guildford—we find her attended by Schiavini, Cavaletti, Berami, Vassali, Olivieri, and other persons of a similar description; most of them ex-officers of the army, who had served under Buonaparté. My lords, for the wife of his royal highness the Prince Regent—for the daughter of the duke of Brunswick—this was a most extraordinary and unaccountable selection, for the daughter of the duke of Brunswick to be attended by men who had served in those armies that had overturned the empire of her father—those armies which had trampled upon, and insulted his country—her brother driven from his hereditary dominions, vowing never to sheath his sword until he had avenged his father's death—that brother marching again in the ranks of the allied army, for the purpose of combating this same force, and perishing in that great conflict, which established the liberties and the independance of Europe—these are the individuals whom the daughter of the duke of Brunswick, the sister of the duke of Brunswick, had selected as her associates, at this retreat at Pesaro—withdrawing herself from all the society of the English, she is so surrounded, so supported! My lords, how is this to be explained, can it be in any other mode explained, except by referring to that absolute dominion which had been acquired over her mind, and over her faculties, by that individual whose name has been so often introduced in the course of this inquiry? Could it have been a voluntary choice, unless she had been so influenced, unless (if I may so express myself) she had been so oppressed?

My lords; in order to account for all this, we are told, that she was forced into exile and banishment, and an argument is built upon the supposed truth of that statement. My lords, her leaving this country was, as all the world well knows, her own voluntary act. We all know, that the proposition proceeded from herself. We all know, that it was assented to by the individuals to whom her application was addressed. And yet, my lords, we are told, that this was a banishment, and that all those consequences, and these associations to which I have referred, resulted from that banishment. Good God! my lords, what consequences have been built upon it! In the early stages of this inquiry, appeals were made to the reign of Henry the eighth, and to the cruelties exercised by that monarch. Those appeals, in that stage of the cause, were considered as sufficiently powerful, as sufficiently high, to answer the purposes of this defence. But we had become used to them—the name of Anne Boleyne, the name of Henry the eighth, had ceased to make any impression on our minds. Some higher stimulant had become necessary; and, in the last stage of this inquiry, to my surprise, to my amazement and utter astonishment, my learned friend, Mr. Denman, whom I have long known, whose candor in private life, and courtesey, I have long loved and admired, dared—I say *dared*, for no other word is applicable to such a subject—to say, that in the history of the ancient and modern world there was no parallel to the usage which her royal highness had experienced, unless in the annals of Rome, in its worst period, under its worst and most infamous sovereign! My lords, the princess of Wales is said, in her sufferings, to stand in the situation of Octavia. How are we to answer this, but by seeing in what situation Octavia did stand, and by seeing the enormous nature

of that charge which has been preferred against the government of this country? Octavia's father was murdered by Nero—Octavia's brother was murdered by Nero, in the presence of Octavia. She, one of the most pure and spotless beings the world ever produced, was charged with having had a criminal intercourse with a slave. My lords, there was not a semblance of truth in the charge—she had never advanced this slave—she had never promoted him to honours—she had never slept in the same room with this slave; but, without evidence, she was sent into banishment. My lords, she was speedily recalled. What then took place? The most infamous of men—a monster who had been employed by Nero to murder his own mother Agrippina, was applied to by Nero to get rid of his wife Octavia: "You must confess that you have had an adulterous intercourse with her, you shall suffer a nominal banishment; but you shall be abundantly rewarded." The deposition was made—it was taken for truth—she was seized—her veins were opened—the blood did not flow sufficiently quick—she was put into hot water, and her head was taken off, and sent to Nero, to glut his savage mind. My lords; what can we say when my learned friend feels himself justified in coming into a court of justice to say, that the case of Octavia bears any thing like a resemblance to the case before your lordships? nay, not only bears any thing like resemblance, but is the only case that can be extracted from the history of ancient and modern times, that can be stated as parallel to it? My lords, I confess when I heard this, my blood chilled with horror. I hardly understood where I was, or from whom it was that this extraordinary language proceeded. But, my lords, what makes it still more extraordinary, my learned friend has not even the merit of invention and novelty in this—the parallel is not his own; for I find in a newspaper which I hold in my hand, published some days before the speech delivered by my learned friend, an advertisement in these terms: "Nero Vindicated!" published by whom, my lords? by a name well known, an individual of whom I know nothing except through the publications he has ushered into the world—"printed by William Hone, Ludgate-hill." And my learned friend condescends to make himself the instrument of such a person as that whom I have described—to prefer such charges as these in this high and august assembly against the monarch of this country!

My lords; what would my learned friends say, if I, imitating the same course in answering the arguments of my learned friend, who would endeavour to persuade you, from the boldness of her royal highness to come here to meet inquiry, that there can be no foundation for the charges against her—what would your lordships, or what would my learned friends say, if I were to quote the language of Silius, as addressed to the wife of Claudius, when he was endeavouring to stimulate her to an act of treason—"Insontibus innoxia consilia; flagitiis manifestis, subsidium ab audacia petendum." My lords; I should not have dared to make such a quotation, only that I found it in the same page with the passages to which my learned friend has referred. I should not have dared to make any allusion to the history of that period; because I believe, my lords, in my conscience, on both sides, as far as relates to the sovereign and government of the country, and to the illustrious individual who now stands before you accused, there is not the slightest degree of resemblance between them.

My lords; a great deal has been said with respect to the balls at the Barona. It is not my intention to go at large into that part of the subject. I will only observe, that it is most extraordinary, that during her royal highness's residence at the Barona, according to the evidence of lieutenant Hownam, we find no persons of rank and distinction, except Cavaletti always in her suite, except Tamasia the ex-prefect of Como and his wife. I believe no other person is mentioned. This is most extraordinary, my lords, when we recollect the situation of the Barona, at the very gates of Milan. And where it is said, that those very entertainments were given for the purpose of amusing the household, that might once or twice occur; but, my lords, we find no entertainments of any other description—we find those entertainments over and over again recurring. My lords, what could be the reason, that, in that residence, so near to so large and populous a city as that of Milan, the seat of the government of that part of the country, we find her royal highness visited by none of the Italian nobility? I say visited by *none* of the Italian nobility; because, I find in the evidence of Hownam, no names except those which I have described.

My lords; adverting again shortly to the theatre at the Villa d'Este, to the extraordinary entertainments there exhibited, to the circumstance of her royal highness acting with her own servants, and (according to lieutenant Hownam), dancing on the stage in the presence of two hundred people, with her own servants, it does appear to me, my lords, that that is an indication of something like degradation, and no inconsiderable degradation, from the rank and station which she filled.

My lords; again with respect to what has been said of the exhibitions of Mahomet, extraordinary is the mode in which the evidence on the part of the bill is met on the other side. A gentleman of the name of Sharpe is called, and he tells you, that he was upon one occasion present at a dance in the east, and that there was nothing indecent or improper in that dance, it being exhibited in the government-house at Calcutta before the governor-general, the governor's lady and other persons of distinction; and your lordships are expected gravely to infer from that circumstance, that there could be nothing indecent or improper in the exhibitions of Mahomet! Sir W. Gell is asked to give some general description of the dance which prevailed in the south of Europe. He says, there is nothing indecent in them, that the Spanish bolero has been exhibited on our stage, and that all mankind may therefore judge for themselves. But he describes that dance as in part partaking of amorous attitudes and being of an amorous character. My lords, does not every body feel and know that where a dance is of that character and description, it may assume all the variety of shades from that which is the extreme of innocence and purity, to that which is the extremity of infamy and licentiousness? The very description of it, the calling it an amorous dance, leads at once to that conclusion, and that according to the occasion, according to the persons who were present and the circumstances under which it was exhibited, it will assume the more or less of the one or the other character. My lords, Bourgoing, in his Travels in Spain, speaking of the fandango and the bolero, expresses himself in these terms—"It is different according to the places where it is practised—when a few persons assembled together, shake off all scruples, the meaning of the dance is then so marked, that voluptuousness assails the mind at every avenue; its excitements cause the heart of the modest youth to palpitate with desire, and reanimate the deadened sense of age. It is impossible not to confess with a blush, that these scenes are to the real combats of the Paphian queen, what our military evolutions in peace are to the real display of the art of war." My lords, I mention this as an illustration of what I am stating, and, when sir W. Gell, who was never present at those exhibitions of Mahomet, merely describes the Spanish bolero as assuming only one character and that character applicable to all occasions, he is misleading and deceiving your lordships.

But, my lords, what is the distinct and positive evidence in this case? It is supposed that the evidence of Birollo is different from the evidence of Oggioni, by whom he was afterwards followed. Birollo says, "he made a roll to represent something. I do not know how to call it decently." I would ask your lordships then, in what respect does the evidence of Birollo differ from the evidence of Oggioni? With respect to the evidence of Majoochi, your lordships are not to form your opinion merely from what appears upon the printed Minutes—you saw his exhibition and can conclude what he meant to represent. And, upon the other side, we have only the evidence of lieut. Hownam, that upon some occasions he saw this dance, and that upon those occasions there was nothing more indelicate than in the Spanish bolero. My lords, is there any balance or conflict of evidence in this case? Can my learned friends say they have met us at all? The exhibition was performed in the presence of many servants of her royal highness at the time when her royal highness was also present—why are not those servants called for the purpose of contradicting him? Why rely upon exhibitions at another time and on other occasions? I have stated, that this dance might assume different shades of character according to the circumstances under which it was exhibited; and therefore, because lieut. Hownam says, that upon those occasions on which he saw it, there was nothing indecent, is that to be taken, in common understanding and common apprehension, as a contradiction of three witnesses who have been adduced with respect to this fact on the part of the bill?

My lords; my learned friends have slightly touched on the evidence with

respect to the transactions at the Villa d'Este. Your lordships will recollect, among other circumstances, the Queen being driven out in a carriage called a padovanello by Bergami, and sitting upon his knee. How is that met? Have they called any witness to disprove that fact? So far from it, though my learned friend has attempted to give some evidence for the purpose of contesting it, that evidence is of a most singular character. Vassali is called for the purpose of contradicting that fact—Vassali never having lived as a servant at the Villa d'Este. So that, instead of calling persons who were at the Villa d'Este to contradict facts which passed there, he calls a person who came into the service after she had left that place!

My lords; at the time when we proved that, from time to time, her royal highness used to go out in a small canoe with Bergami, no other person being present, that fact was contested; but lord Guildford himself gave evidence as to that fact, and confirmed, beyond the possibility of doubt, the evidence which was given on the part of the bill. Your lordships will find the evidence of Galdini extremely material. Dr. Lushington contented himself with making observations upon the absurdity of the story—this man had gone up stairs—had suddenly opened the door—had seen her royal highness and Bergami sitting on a chair or sofa, Bergami having his hand round the neck of her royal highness, and on one of her breasts—Bergami jumped up, and asked him, what he did there; and because the witness says, "I observed this only for a moment," my learned friends would infer that the whole story was a fable. Now, I beg to direct your attention to the first fact which came out in cross-examination. My learned friend, Mr. Tindal, asks, "Whom did you first inform of what you knew upon this subject?" "The first time I mentioned it to the son of the factor on the same day." Now, what is there improbable in this witness's story? But, if it be untrue, my learned friend had the means of contradicting it—the fattore has been called here as a witness; his son might have been called here to disprove this statement made by Galdini—and, will your lordships, when my learned friends had the power of disproving the statement of the witness, on these vague and general observations of Dr. Lushington, carrying no weight with them, say that this evidence is to be discarded? And, if it is not to be discarded, can any thing be more strong, more striking, and more conclusive than the facts which he states?

My lords; another witness upon whom my learned friend has made no comment, is Galli. He was a waiter at the inn at Barlisina, and he says, "I saw them at dinner. Her royal highness and Bergami sitting near each other."—"What was their conduct towards each other?" "At the dinner they paid compliments to each other, and I saw that they took some delicate morsel, and offered to each other. The baron took something out of his plate and offered it to her royal highness. Then her royal highness took something out of her own, and gave it to the baron. He then says, that the princess and Bergami were left alone—that they remained there for half an hour---that he came suddenly into the room, and saw them kissing each other." Now, my lords, you will find in the cross-examination that abundant materials were furnished for the contradiction of this witness. He is asked, who was present upon the occasion. "Were there not eight or ten persons in the company of the princess?" "There were."—"Do you know any of them?" "Her two dames d'honneur---there was the daughter and the mother of the baron, there was a servant, professor Mocatti,---captain Vassali, and an Englishman whom I did not know---there were some other persons, but whom I do not know." So that the evidence of Galli relates to a transaction that took place in the presence of all those persons, who at that time were dining with her royal highness, and therefore every thing that he has said might have been contradicted. Are your lordships, then, to reject this evidence, only because it is the evidence of the waiter at the inn at Barlisina, after my learned friend's cross-examination for the purpose of knowing who were present upon the occasion? When it is ascertained that so many persons were spectators of the transaction, will you not require that some of those persons shall be called to contradict this witness? And, if my learned friends will not pursue that course, will you be disposed to reject this evidence, which is of the same character and description as the other evidence to which I have directed the attention of your lordships.

My lords; there is another fact, the

statement of the busts at the Villa Brandi ---a person came to take a bust of her royal highness, and another of Bergami, and those two busts, according to the evidence of Sacchi, were placed in the room of Bergami. My lords, any witness at Pesaro might have contradicted that fact, and your lordships see what is the inference to be drawn from this. At the Villa d'Este you find them living together in the utmost degree of familiarity, walking arm in arm, like persons in the relative situation of husband and wife, going out in a canoe together, sitting on a bench, Bergami getting up to go away, and her royal highness pulling him down by the coat, Bergami kissing her royal highness, and a variety of other particulars, to which my learned friends have not attempted to give any answer. But, that I may not be tedious,—I will leave this part of the case, and direct your lordships attention, once more, to one remarkable fact—I mean, the transactions at Catania.

Your lordships will recollect, that at Catania, Demont and Mariette Bron, slept in a room with Bergami's room on the one side, and the room of her royal highness on the other---that Bergami occupied the room which belonged to the countess Oldi; but she, for the accommodation of Bergami, was removed into the room of her royal highness, and the little Victorine also slept in the same room. Your lordships have it positively sworn by Demont, that when she came up to bed, she found that her royal highness had already retired; that she was not called to undress, according to her usual practice, the room door being closed. In the middle of the night, she hears the child crying "mama," the countess Oldi endeavouring to pacify her. That is a most striking circumstance.

Mr. Denman.—It is not the same night.

Mr. Solicitor General.—It is most positively sworn to be the same night. I beg leave, then, to recall your recollection to what took place in the morning. The usual time for retiring from that apartment was nine o'clock. Demont remained till ten; and before she retired, her royal highness came out of the room occupied by Bergami, with her two pillows, for the purpose of passing to her own room. The moment she saw Demont, she started, said nothing, but passed on. Now, my lords, if that circumstance be true, can any person for a moment contend, that that is not clear and distinct evidence of an adulterous connexion having taken place during that night? But, my lords, how is this case to be opposed? She is asked, in the first instance, whether her sister was present. She says, she does not recollect positively, but as far as she does recollect, her sister was present at the time. But, my learned friends say, that as she does not swear positively that Mariette, her sister, was present at that time, Mariette cannot contradict her, and therefore it is unnecessary to call her for that purpose. But, unfortunately for my learned friends, that deficiency has been supplied by Mr. Brougham's own statement. Let us advert to what is stated by my learned friend: he says "Let me remind your lordships of the scene that is said to have taken place at Catania"—and then, after relating the particulars of the transaction, he says, "I am told that the means are left in my power of contradicting this statement by calling Mariette;" and then, after going into a long argument, for the purpose of showing it is not necessary for him to call Mariette, he concludes with these words: "Her majesty, however, has hitherto seen no reason to part with a faithful servant, no ground of suspicion arising against her conduct; she has as yet discovered nothing to her prejudice; we shall, therefore, present her before your lordships, and you will have an opportunity of hearing her account of those transactions; but it is gratuitous on our part." So that it is stated upon the other side, that Mariette Bron was in a situation to speak distinctly to this transaction; and if there be any defect upon the Minutes, that defect is abundantly supplied by this gratuitous admission. I ask your lordships then, why, in pursuance of this pledge, Mariette is not called, for the purpose of contradicting Demont? Is there any satisfactory reason for withholding the testimony of this witness? She is spoken of by my learned friend, in the highest possible terms. The story which she has to tell, must, of course, be of the most simple description. What danger can there be in placing her at your lordships bar? And, my lords, if Demont has vouched her—if she is not called for the purpose of contradicting Demont—is it possible, that you can entertain a doubt, with respect to the confidence you ought to place in the story Demont has told? It is not the testi-

mony, however, of Mariette Bron only, that my learned friends might command upon this occasion. Madame Oldi might have proved, that her royal highness was not, during the whole of that night, out of the room she occupied in conjunction with her. The story of Demont might have been disproved by two distinct witnesses, neither of whom has my learned friend ventured to produce; and yet they call upon you confidently to disbelieve the story told by Demont. Have not my learned friends, then, admitted, by their own conduct, that the story cannot be impeached? The setting up these flimsy excuses is the strongest possible corroboration of the truth of the story told by her. My lords, are you to decide upon the evidence given you? Are you to decide not only upon that evidence which we laid before you, but which my learned friends might lay before you, and which they withheld from you? Is this a legitimate course to pursue in endeavouring to arrive at the truth? If it be so—never, I apprehend, was a case more strongly established by the evidence distinctly given on the one side, and the evidence withheld and not called on the other, than the case at Catania; and, that an adulterous intercourse took place between these parties on that night, no reasonable man can entertain a particle of doubt.

My lords; there is another case which has already been alluded to—I mean the case at Turin. Your lordships remember that Birollo, of whose character there has been no impeachment, states, that he went accidentally through the room of Bergami into the room of the countess Oldi, and that he saw Bergami come out of the bed-room of her royal highness, in his night-gown, with his drawers and his stockings, and no other part of his dress, and that the bed of Bergami was not deranged. My lords, the countess Oldi might have been called for the purpose of contradicting this evidence. Am I to be continually recurring to that same observation? There is scarcely a part of this case which might not have been contradicted by the countess Oldi. According to the case we set up, the countess Oldi entered into the service of her royal highness for the purpose of assisting in this correspondence which was carried on—she was present during the whole course of this transaction—she was in such a position, that almost every case might, if false, have been disproved by this individual—and yet she has been throughout withheld!

My lords; I pass to the case at Carlsruhe. Upon that I shall make a very few observations, because it has been already commented upon so fully by the attorney-general. But, look at that case, and see how it presents itself to your observation. Some weeks have now elapsed since Barbara Kress gave her evidence. My learned friends have had their agents upon the spot at Carlsruhe—they have, therefore had every opportunity to inquire into the character of that female. They might have impeached that character, if it did not stand above all impeachment. After, therefore all those opportunities have been in the power of my learned friends, no attempt is made to impeach her character. She swears positively and distinctly to the fact, that she saw her royal highness in the bed-room of Bergami, sitting on the bed in the manner so often described. Could she be mistaken in the person of her royal highness? As if for the purpose of guarding against that inference, at the very moment at which Kress was giving her evidence, her majesty was sitting before her, in the chair placed in your lordships house for her reception. She swore positively it was her majesty; and at a particular part of the evidence her majesty withdrew. Now, what is the answer attempted to be given to this on the other side? It is attempted to be said, that this might be the countess Oldi. My lords, if it is so surmised, the countess Oldi might have proved the fact; and, not proving the fact, it is perfectly clear that she could not have mistaken her royal highness for the countess Oldi. What other individual could it possibly have been? But we need not resort to conjectures of that kind; for the witness swears positively that it was her royal highness.

But, my lords, what is the answer attempted to be given to the case? Count Vassali is called, and he tells you, with a precision which is absolutely miraculous and incredible, after a lapse of three years, where her royal highness dined, where she supped, how she passed the intervals between dinner and supper, upon every day during her residence at Carlsruhe. My lords, this is a most extraordinary proof of memory of that individual. With respect to another place, almost as remarkable, I mean Munich, he cannot give

an account where she dined or supped on any one day during that whole period. And your lordships will find, in adverting to the testimony of Mr. Hownam, in speaking of the residence at Carlsruhe he says, that she supped out mostly; not supporting the testimony of Vassali, who says, she passed every evening absent from her own residence. My lords, is it possible to put the evidence of Vassali in contrast, in opposition, to the evidence of Barbara Kress? And after all, my lords, who is count Vassali? He is at present a pensioner in the service of her royal highness—he is the friend of Bergami—he is the person actively employed in collecting the witnesses—he is the individual employed to indemnify them—he it is that receives large sums of money for that purpose—he is identified, actively engaged, in this cause, and in the defence; and has every interest to promote it to the utmost extremity of his power. I would ask your lordships, then with confidence, whether you would put the evidence of this witness, with respect to facts of this description, in opposition to the distinct evidence of Kress? But I beg leave to recall to your recollection the circumstance that Bergami, in consequence of indisposition, retired from the dinner at the grand duke's between four and five in the afternoon. It is admitted that her royal highness returned to the inn about seven on the same evening; but Vassali says that which is utterly incredible, that which must be false—that after she came into the saloon at the inn, she never left it during the whole time that she remained at the inn, but stayed there, retiring for no purpose whatever. Can your lordships believe that circumstance? But, my lords, there is another fact of the most decisive kind. I mean the cloak of her royal highness found in the bed, delivered to one of her servants, afterwards seen worn by her royal highness; and no explanation of that circumstance is given of that most extraordinary fact. My lords, these two cases, then, reflect light upon each other—they mutually support and assist each other—and, if you believe the latter fact, which is not contradicted, what a strong confirmation does it give to the previous testimony of Kress! My lords, judging upon this case according to the ordinary rules by which evidence is sifted and examined, I apprehend you can entertain no serious doubt with respect to it. It is said, indeed, that my learned friends have suffered greatly in consequence of the absence of baron d'Ende. My lords, that is their statement on the other side, and might be met by contradictory statement on ours. I do not believe that my learned friends have suffered from the absence of that individual; but I have as much right to say that, as my learned friends on the other side have to say, that if that individual had appeared, he would at all have assisted the case of my learned friends. But, my lords, you are to decide this case, not on evidence which cannot appear at your lordships bar, but upon that evidence which is before you; and, judging upon the evidence before you, it appears to me, that a very strong, clear, and distinct case is made out with respect to the conduct of Bergami and her royal highness at Carlsruhe; so as to lead to the inference to which the other facts of this case lead, namely, that of a criminal intercourse having taken place between them.

My lords; some observations have been made on the conduct of an individual at Carlsruhe, but which appear to me utterly destitute of foundation, I mean the conduct of baron Grimm. Baron Grimm was occupying rooms in that hotel; for the purpose of accommodating her royal highness, he gave up those rooms, as every gentleman would do, to the accommodation of her royal highness. Afterwards, when her royal highness went away, he returned to the apartment with his friend; and then the witness represents him as running about in the apartments—that is evidently going from one room to another; as any individual would almost of necessity have done under the circumstances; and, upon the phrase "running about," my learned friends have built up a fanciful structure, as if baron Grimm had been busy in carrying on some secret intrigue and conspiracy against her royal highness.

My lords; it is impossible that I should leave this case without saying something upon the alleged conspiracy to suborn witnesses; upon which my learned friends have laid so much reliance, in the conduct of this cause. They were going straight on, for the purpose of disproving our case—they had in the outset called lieut. Flinn for the purpose of disproving our case on board the polacre, and had called lieut. Hownam for the same purpose. We considered that they were marching right on, and that they meant

to call the countess Oldi, and Mariette, and other persons in her royal highness's service. We were prepared to meet them. But, all at once, not satisfied with the evidence of lieut. Hownam—feeling that it had been injurious to the cause it was intended to defend—all at once they turned round, and set up a pretended conspiracy, to suborn witnesses to give evidence against the Queen, and, for a whole week, attempts were made, by my learned friends of the most extraordinary kind, to introduce that which they themselves must have known was not evidence in the cause—labouring point after point—charging us with relying on technical distinctions, whereas our distinctions were of the most solid and substantial character — endeavouring in every way to introduce, for the purpose of impression, that which every lawyer must have known not to be evidence, merely for the purpose of creating a prejudice in the cause. And at last, my lords, compelled to abandon this charge of conspiracy, compelled to allow they had not been able to substantiate this charge, obliged to give it up, showing, in the first place, that they placed no reliance upon it, and after a fruitless attempt, compelled to abandon it altogether.

But, my lords, in the course of this proceeding, it is supposed to have been discovered that Restelli was absent. Why, my lords, as far back as the 18th of September it was publicly announced throughout the country, that Restelli was not here. It had been stated in another place in distinct terms.* It is almost impossible to suppose that my learned friends had not received their intelligence from their correspondents at Milan. But my learned friend, Mr. Brougham, turning round, with an admirable simplicity, to the attorney-general, says, "Mr. Attorney, will you put Restelli to the bar?" with all that gravity which he knows how to assume, "will you put Restelli to the bar?" The attorney-general refused to give any answer to a question put personally to himself—it was put through your lordships, and the attorney-general said Restelli was not in the country. Then, my lords, this smothered fire broke forth —then the most powerful appeals were made to your lordships judgment. Restelli, according to the expression used by my learned friend, had been "spirited away" that he might not be again examined as a witness, and in order that he might not be indicted for the perjury he was supposed to have committed. My lords, every explanation which could be given was given. Mr. Powell was called to your lordships bar. He was sifted, and he said, "true it is, I sent away Restelli, but with positive injunctions to return here by the 3rd of October. I did not mean to subtract him as an evidence in the cause. I did not send him with an improper motive, but to get some documents authenticated, and to give confidence to the families of those witnesses residing here, in consequence of the affair at Dover." My lords, there were some persons who were disposed to question the correctness of this statement made by Mr. Powell, and an application was made to him to produce, not only the copies of his own letters, but the letters he had received from colonel Browne in the course of this transaction. He submitted to your lordships decision upon the point. My lords, I do not complain that, under the particular circumstances of this case, you thought it right that those letters should be produced—they were produced, and they confirm, beyond the possibility of doubt, the previous statement which had been made by Mr. Powell—made at a time when Mr. Powell could not, by possibility, suppose that those letters could ever be required; because, the very first letter that was sent by Mr. Powell upon that subject, desired that he might be back by the 3rd of October. The whole correspondence shows, that he was most anxious for his return, and that Restelli never was subtracted for the purpose of preventing his being heard as a witness at your lordships bar, or for the purpose of preventing any proceeding against him. It is impossible to read that correspondence* and not to be satisfied of the good faith of Mr. Powell in that transaction.

But, my lords, it is supposed there is some inconsistency in the statement made by Mr. Powell; and my learned friend, referring to the answer of Mr. Powell, says, "Have you had any communication which enables you to state whether it is probable that Restelli will soon again be in England?" "I have every reason to believe that he will soon be in England, because the most positive directions have been sent that he should be sent over.

* See p. 70 of the present Volume.

* See the Correspondence at p. 968.

—" When were those directions sent ?" " They have been sent two or three times; the last directions were sent on Saturday or Sunday, the most positive directions. I have learned that Restelli had, for some days, been violently ill, and confined to his bed by a fever, having been blooded and attended by some medical person. My learned friend supposed there was some concealment on the part of Mr. Powell. Mr. Powell told you, he had every reason to expect he would soon return; and at the time he told you, he expected he would soon return. He told you all the circumstances of the situation in which Restelli stood, and the impediments which might be opposed to that return; and yet my learned friend supposes there was some attempt at imposition on the part of Mr. Powell. Nothing was withheld—nothing was concealed from your lordships; and it is the best vindication of the character and conduct of Mr. Powell, that, not supposing it possible those letters ever would be produced, he gives his evidence at your lordships bar; and on referring to those letters in all the main and material facts of the case, namely, as to the motive for sending away Restelli, and the direction for his immediate return, he is confirmed in every part of the correspondence. So much, my lords, with respect to the imputations which have been cast upon that gentleman.

But, my lords, my learned friend again says, " What are those documents you expected him to bring back ?" and my learned friend would endeavour to lead you to believe, that there were no other documents intended to have been brought back by Restelli, and that this statement made by Mr. Powell is not borne out by the fact. I request your lordships again to refer to the correspondence, and you will find that those documents are distinctly referred to in the correspondence: and when my learned friends ask us, how we could make use of any documents in this stage of the cause, cannot they suppose it possible that there may be documents connected with the previous situation of Bergami, that might have been material in cross-examining the witnesses who might be called to support the character of that individual ? When my learned friends ask us, what is the nature of these documents? I shall not more distinctly state to your lordships their character, but my learned friends may conceive they may be of such a character, as to the situation of Bergami at Lodi in the prison there, as to be material in conducting the cross-examination of those who came to speak to the good character and conduct of that individual.

My lords; another individual has been attacked—I mean colonel Browne; and he has been attacked on such evidence as renders it astonishing to my mind that any persons could, on such testimony, attempt to raise a charge against a gallant and honourable man. A person of the name of Omati is produced, the travelling companion of count Vassali, for the purpose of fixing a taint on the character and conduct of colonel Browne. My lords, who is Omati, and in what light does he present himself to your lordships? My learned friends even endeavour to throw a shield over the character of that individual. My learned friend, Mr. Wilde, who re-examined him, re-examined him as to his age—he was only two-and-twenty years of age—it is therefore to be supposed that he was a youth, seduced by the wicked contrivance of Vimercati and of colonel Browne. My lords, look at the sort of evidence he has given—he says, " I was met by a person by accident in the street, whom I had never seen before."

Mr. *Denman*.—He does not say " by accident."

Mr. Solicitor General.—I say, he tells us so in his cross-examination: " Did you meet him by accident?" " By accident. I did not know him; he stopped me." When he told you to go to Vimercati, you being the servant of Codazzi, did you not ask him what his name was, and who he was ?" " I asked him, and he told me that it was no business of mine."—"Did you meet him by accident on the second day ?"—" Yes." And this man whom he did not know, whom he had thus met by accident the second time, persuades him to go to Vimercati. My lords, he goes to Vimercati, and according to his account, Vimercati persuades him to deliver to him papers belonging to her royal highness. He pays him for those papers, and he goes on delivering successive parcels of papers till the month of November in the same year. My lords, he says, that at the end of that year, or at the commencement of the next, he repented of what he had done; he had been seduced by those persons to hand over those papers, and to betray the confidence of his employer; for he describes

himself as the confidential clerk of his master. He is then asked, Did he not, upon this repentance, endeavour to repair the wrong, by telling his master what had taken place? No. But though he repented of this, we find him in the month of March going for the purpose of obtaining further payment from Vimercati as the reward of his treachery; and again, in July, he delivers a list of the witnesses to a person sent by Vimercati.

My learned friend says, "Oh! you know about this list, or how could you ask to it." Why, my lords, we knew nothing of the fact. We asked, whether he had delivered more papers; he said he had. What did they consist of? A list of witnesses. And my learned friend would lead you to suppose, that because, by a series of questions, we obtained the result that this list of witnesses was delivered, we had a previous knowledge of the fact of this list being delivered!

My lords; it is said, colonel Browne must have known, that Omati was to be called as a witness, and ought therefore to be here to confront him; and my learned friend refers to the instructions for cross-examination lying before us in confirmation, as he says, of the truth of that statement. My lords, colonel Browne had reason to believe that this man was sent to him in concert with Codazzi; and therefore it was, that he thought it necessary to communicate in a letter, long ago, the whole history of this proceeding. And when, to our astonishment, we found, that Omati was produced as a witness, we referred instantly to the letter of colonel Browne, and from that letter obtained the materials for cross-examination.

My lords; is it upon evidence of this description, upon the testimony of a witness describing himself as this witness has, that you are to impeach the character of this gallant officer? "Oh," we are to be told, "you are to say nothing as to the character of this individual, it is quite nauseous to hear the praises of the persons composing the Milan commission." On the other side, the Milan commission are, day after day, attacked in the harshest terms without stint or limit; but, if any person gives his testimony to the characters of the individuals thus assailed, we are told, that it is incorrect and improper. My lords, no evidence has been given to impeach any individual connected with this Milan commission, that, in my mind, can make the slightest impression upon your lordships. There is nothing to show that, throughout the whole of this transaction, they have not conducted themselves with the utmost integrity, with the strictest purity and propriety. My lords, when I say connected with this Milan commission, do not let me be understood to go so far as to say, that all the subordinate persons have, in every instance, conducted themselves with propriety: this, however, I will say, that there is not the slightest evidence to satisfy your lordships, that any one of the Milan Commissioners has had any knowledge of any improper conduct, much less been privy to any improper conduct, much less given the sanction of his name and character to any improper conduct, proceeding from any individual whatever.

My lords; my learned friends complain (and they have complained throughout), of the difficulties with which they have had to contend throughout this defence—they complain that the charge itself was not, in the first instance, explained with sufficient distinctness, and that they were not furnished with a list of the witnesses. My lords, the only case in which, according to the law of England, a party is entitled, before he comes to answer a charge, to a copy of that charge, and to the names of the witnesses by whom the charge is to be substantiated, is the case of high treason. My lords, here my learned friends not only have had a copy of the charge; they not only have had a list of the witnesses; but they have had a copy of all the evidence to which those witnesses had deposed; and, after a long interval, an interval named by themselves, with all this previous information, they come here for the purpose of conducting the defence. But my learned friend says, how could we cross-examine for the purpose of meeting this charge, persons of whom we knew nothing? In opposition, I believe, to a previous determination of your lordships, whenever my learned friend suggested, that the cross-examination of any particular witness ought to be renewed, that witness has been again placed at your lordships' bar, for that purpose; and after a pledge given, I think by Mr. Brougham, that if Majoochi was placed at your lordships' bar for the purpose of being cross-examined the second time, he would require it no further—after that, on two distinct occasions, that individual was called for the purpose of undergoing a further cross-examination.

My learned friends, therefore, have suffered nothing by not having the materials for cross-examination; because, if there was any original defect, your lordships have abundantly supplied it, by the indulgence you have given throughout this inquiry. Never did an individual accused, stand in a situation more favourable for conducting her defence, than her royal highness has done. My lords, do I lament that? I rejoice at it. When a charge of this kind is brought against the Queen of Great Britain, I would desire that every facility, without limit, should be afforded to her for the establishing of her innocence. We must not, my lords, in a case of this kind, proceed upon conjecture—we must not, my lords, in a case of this kind, proceed upon loose suspicion—the case must be established, and established beyond the possibility of doubt, before we have a foundation upon which we can proceed to enact a bill of the character and description of that now before your lordships; and therefore it is that I rejoice, that every indulgence has been afforded to her majesty in the conduct of this defence, that nothing has been withheld, that was calculated, in the slightest degree, to elicit the truth. It is for your lordships, after all these opportunities have been afforded to her majesty, to consider the mass of evidence that has been adduced, and to say, whether or not these charges are substantially made out against her.

My lords; we now take our leave of this great case; and, long and tedious, and laborious and painful as this investigation has been, the courtesy and kindness, and indulgence which we have experienced from your lordships, has, in no inconsiderable degree, assuaged and mitigated our toils. And, my lords, in retiring from your lordships' bar, we should be guilty of the greatest ingratitude, if we did not make to your lordships our acknowledgments, for the kindness which we have experienced at your hands. Never came a cause into a court of justice, in which there was so much anxiety, with respect to every step in its progress, and with respect to its final result, as the present. Every passion has been successively appealed to, in the conduct of this defence, by my learned friends on the other side. They have well and faithfully discharged their duty to their illustrious client. We make no complaint of their conduct. We rejoice to see such talents exercised in the defence of a Queen of England. My lords, my learned friends have endeavoured to awaken successively, all the sympathies, and all the passions of your nature. They have even appealed to the basest of all passions, the passion of fear. In this high and august assembly, the élite, if I may so express myself, of a nation renowned for its firmness and intrepidity, my learned friends have appealed to the passion of fear. You are told by one of my learned friends, that if you pass this bill into a law, you will commit an act of suicide. Another of my learned friends tells you, that you are to pass the bill at your peril—these words hung upon the lips of my learned friend who now stands near me, for a time sufficiently long to be understood; and they were afterwards affectedly withdrawn. My lords, I am astonished that such topics should have been addressed to your lordships. They can only have an injurious effect upon the individuals from whom they proceed. I know, my lords, that you will not dare to do any thing which is unjust—at the same time, I know, that what justice requires, you will do, without regard to any personal consideration that may affect yourselves. But, my lords, it is not in this place alone, that these arts have been resorted to—the same course has been pursued out of doors; the same threats have been held out; and every attempt has been made to over-awe and intimidate the decision of your lordships. Even the name of her majesty herself has been profaned for that purpose. In her name, but undoubtedly without her sanction, and her concurrence, attacks of the most direct nature have been made against all that is sacred and venerable in this empire—against our constitution—against the sovereign—against the hierarchy—against all orders of the state. My lords, this could not proceed from her majesty. Her name must have been made use of by persons aiming, under the sanction and shield of that name, at some dark and pernicious designs. If we could suppose it, my lords, we must imagine that her majesty was aiming at the overthrow of the government and constitution of the country—

> " —— dum Capitolio,
> Regina dementes ruinas,
> Funus et imperio parabat—"

might, in that case, become a new era with our posterity. My lords, I acquit her majesty of having had any concern

in the transactions to which I allude; and I hope that, from this moment, these proceedings will for ever terminate.

My lords; if in looking at this evidence, although you should have the strongest possible conviction on your minds, that the Queen is guilty of the charges which are imputed to her in this bill, but you should think that, in strict legal evidence, there is not sufficient to lay a foundation, on which you can safely act; in that case, and in that case only, you will adopt the language suggested by my honourable and learned friend, Mr. Denman, and say, "Go thy way, and sin no more." But, my lords, if you are satisfied, bending your minds earnestly to the contemplation of that evidence, looking at it with that calmness, and that dispassionate feeling with which, as judges, you ought to contemplate it; that the case is made out so strongly, so fully, and in a manner so satisfactory as to leave no real doubt upon your lordships minds, then, my lords, knowing what I do of the tribunal I am now addressing, I am sure you will pronounce your decision upon this momentous question, with that firmness which is consonant to your high exalted station.

After a short pause,

Mr. *Brougham* said, that he wished to call their lordships attention to a matter which he mentioned a day or two ago. He had on that occasion stated, that some papers of importance had just reached him, which he had at once felt it his duty to lay before their lordships; indeed, he felt it would be a dereliction of duty in him to allow their lordships to go to judgment without puting them in possession of these papers. It appeared to him, that there were two points of view in which such evidence was admissible. He was certain that in any ordinary case, no judge would hold that, before final judgment was given, it was too late for a defendant to obtain justice; he was convinced that such evidence as that which he was about to offer, would be received in the courts below, open certainly to cross-examination, to a rebutter, and to all the comments of the prosecutor. But, was it not more necessary that such evidence should be received in such a case as this? He would call their lordships' attention to the reasons, why it was material that this evidence should be received. First, it brought home distinctly and unequivocally to Francis Baron Ompteda, the charge of conspiracy to suborn witnesses against her majesty. His learned friends had complained that much had been said, but little proved, on this part of the case. Now, he was about to give evidence that, during the whole of the prosecution, this Ompteda was amongst the most active, if not the most active, that he was the least scrupulous, though it would not be easy to decide, where so little scrupulousness had been observed, who the least scrupulous person was; but at least it went to show that Ompteda was that man among the agents of the commission, who took the most discreditable means of obtaining evidence against the Queen. The letters to which he alluded, went to show that Ompteda had employed one of the police, an agent of the government at Pesaro, and whom he was able to procure through the interference of that government, for the purpose of corrupting her majesty's servants, mentioned by name, to give evidence against her. From those letters, it would appear, that Ompteda was the person who carried on the correspondence between Demont and her sister, Mariette; that it was he who conveyed the letters to Mariette, after Demont had quitted her royal highness's service, in which she was, in the mean time, the means of continuing her sister. He would show that even after Demont had been examined, and as it were in the toils of this commission, Ompteda had conveyed letters from her to her sister Mariette; he would show that this Ompteda—this Hanoverian minister—this agent of count Munster—this second chief in that foreign diplomacy to which their lordships owed the task of sifting this case; he would show them, that this man had mentioned not only Mariette, but Hieronimus, as persons whom he had in his eye. That he stated in the letter, "Have the goodness to tell me your opinion of it, as well as of the dispositions of M. Olivieri towards the princess, whose service he quits. What opinion is to be formed of Vassali? I learn, likewise, that several new Roman servants have been received, whose names I should be curious to know,"—for what purpose he would leave it to their lordships to decide; and to all this was added, the promise of a rouleau of Louis, ready to be given to induce the party applied to, to comply. He conceived the production of those let-

ters would be a good answer to the question of the attorney-general, why Hieronimus and Mariette were not brought forward as witnesses. In this transaction he believed the English ministry were alien, but the Hanoverian ministers were certainly parties to it.

The *Attorney-General* said, he objected to his learned friend's proceeding further. Had he the talent, eloquence, or nerve of his learned friend, he might well turn round, and with a bursting exclamation say, "And now, my lords, I ask whether you are a court of justice?" If his learned friend's object was merely to make a speech, he would have avoided, not only the letters, but all comments on what had been said in reply. The letters had been produced when he was in the course of his reply, and when his learned friend knew that they could not be received in evidence. If the letters were of importance to the defence, their lordships might perhaps be inclined to relax the strict rules of evidence in favour of the accused, but he denied that it could be done in this case. The object was, to establish the proposed agency, and then to show the conduct of the party under that agency. But the declaration of the party could not be received to prove this, neither could the written declaration of such agent. His learned friend had accused baron Ompteda; and now it turned out, that the accusation was without proof; for no proof was attempted to be offered against Ompteda until this moment. It was not until he had complained of this accusation without proof, that the letters in question had found their way into the hands of his learned friend. Then it was that his learned friend came forward and said, "Oh, I have got letters of the greatest importance, which I wish to lay before your lordships." He contended that those letters could not be received. His learned friend had ingeniously contrived to state the contents of the letters, but he had not said to whom they were addressed, nor had he mentioned their dates.

Mr. *Brougham*.—My lords; I have not the slightest objection to do both. I will read the letters throughout, if my learned friend wishes.

The *Attorney General* admired the adroitness of his learned friend. He had contrived to give the contents of the letters in his own way; but he could not accept his learned friend's boon. He saw his learned friend's dexterity, but he must not be caught by it. The learned gentleman contended, that the letters could not be received.

Mr. *Brougham* said, his learned friend had done him injustice in supposing that he meant to take any advantage of him. The first letter was dated the 24th Feb. 1819. The second, the 6th of March, 1819. There was also a third (which was an answer to the first), dated the 28th February. The person to whom those letters had been addressed, was a director of police at Pesaro. He was aware that he had no right to press upon their lordships any reply to, or correction of his learned friend's occasional mistakes in the course of the reply. Perhaps, too, there was another reason, namely, because he did not feel himself pressed by any necessity to do so. He contended that he had a right to produce those letters, as an answer to the question, why he did not produce certain other witnesses. He had been told that he knew the contents of the letters, or he would not have held back Mariette and Hieronimus. This he denied. He had found the activity which had been used in corrupting her royal highness's servants. He saw that they had already got four of her servants, and he knew not how far the others might have been practised upon. With respect to Mariette and Hieronimus, he said on a former occasion that he did not know but they might have been under the trammels of the Omptedas and Grimms; and now it turns out, that he was perfectly well founded in the remark. If he had, in a rash moment, called any of those persons, they might have turned round upon him; they would, in reality, be the witnesses of his learned friends, whilst they would be his only to appearance. The evidence afforded by the letters of Ompteda was a proof of the sound discretion which he and his friends had exercised on this point. His learned friend had said, that there was not a tittle of proof to show any connexion between Ompteda and the present cause, now he wanted to show that there did exist such connexion, he wanted to demonstrate the fact; Majoochi was cross-examined to show that baron Ompteda had a connexion with the case; Majoochi shuffled at the questions put to him on this head, and then he and his learned friends called witnesses to contra-

dict Majoochi. In the course of the examination of Carrington, it appeared that Majoochi represented Maurice Credi as employed by Ompteda to get possession of the papers of her royal highness. Again, lieut. Hownam is asked "Did Maurice Credi continue in the service of her royal highness after you saw him upon his knees?" "He did, as far as Nuremburgh, on the journey to Vienna." Their lordships would also recollect that Restelli had been sent to Credi; that he accompanied Mr. Cooke, the head of the Milan commission, to Frankfort, where Kress had been examined; Cooke went to Frankfort to examine Credi, and Restelli said he accompanied Cooke. He only referred to those facts for the purpose of showing that sufficient had been said respecting the interference of the baron Ompteda to let in the additional evidence of the letters which he offered. With respect to Credi, he had been before the Milan commissioners, but he had not been before their lordships. Where he was now it was hard to say. He knew not whether he was in England; but it was very clear that he was in the camp of the opposite party. He knew not whether he was lodged in strong towers within the walled fortress of Milan, or a well stored and well defended fortress in the vicinity of that house; but clear it was, that they could not reach him; they could not storm the formidable fortress within which he was supposed to be, neither could any civil process reach him. He was within the power, and under the control of the supporters of the bill. Why was he not produced to contradict Carrington? Had Credi been produced, then might he (Mr. B.) have examined him as to the details of the agency of Ompteda—then might he have had an opportunity of bringing to light the scandalous conduct of that individual, and his connexion with the Milan commission. But he did not stand on this ground; he would put his right to produce the evidence he now tendered on broader, higher grounds. He would ask their lordships, whether they were prepared to refuse evidence which was most essential to the pure administration of justice in the present case? He stated openly to them the nature of the evidence which he now tendered—he told them what it was capable of demonstrating. With what appearance of justice, then, could they refuse to receive it? He did not think the courts below could refuse to receive it. But, granting that technical rules might shut out the evidence he tendered from inferior courts, it was the imperative duty of their lordships to receive it. This was not the trial of an issue—it was not a case between two ordinary persons, to be decided according to the rules of common law. Would to God it were! If it were, then would the innocence of her majesty prevail, and the verdict of the jury re-echo the verdict already pronounced by the country. Would their lordships proceed on this extraordinary measure--this bill of Pains and Penalties—this *ex post facto* law, intended to ruin an individual under the pretence of state necessity, whilst they refused evidence so important as that which he tendered at their bar?

The *Attorney General* put it again to their lordships, whether or not his learned friend had not offered those letters for the opportunity of making a speech in reply to the concluding addresses of the counsel for the bill? What did their lordships now hear after all, but that they were not to be guided by the ordinary rules which they had hitherto followed, but that his learned friend should be allowed to bring in any evidence which he might think material to her majesty's case, and that their lordships had no discretion but to accept it. With respect to the nature of the evidence to which his learned friend alluded, he felt no alarm; but he maintained, that if their lordships adhered to the rules they had hitherto followed, there was not a tittle of ground for admitting this evidence. He denied also, that what had been said in the evidence, with respect to Maurice Credi's begging pardon before her royal highness, was any sufficient reason for the production of those papers. As to the evidence of Carrington, he was called to contradict Majoochi: but, who ever heard, that what he said of what he heard Majoochi say respecting another could be evidence as against that other? He then submitted to their lordships that there was no just ground laid for the introduction of these letters, though, he repeated, that he was not afraid of them as affecting his case if they were produced. Their lordships, however, would be the best judges whether the papers had any material bearing on the case, and, if so, whether a just ground had been given for producing them. Was it now meant to be said, on the other side, that those letters were the reasons

to be given for the non-production of Mariette and Hieronimus?

The *Lord Chancellor* observed, that according to the practice of the courts below, after the reply was heard, the counsel on the opposite side had no right to offer any observations, except as to cases quoted. He had seen what was passing at their lordships bar, and he could state that, in an experience of 45 years, he had hardly ever seen the rule to which he had just alluded strictly observed. Counsel generally, when they replied to cases, diverged a little to the reply of the other side. He did not say that they had any right to do so; but it was generally done. As to the case here, he should remark, what he was certain would be the fact, that no attention could be paid to such observations. With reference to the request of counsel to have those papers received, he had yet to learn what connexion there was between those letters and the evidence of Credi or Majoochi. Credi was not a witness before their lordships; and as to Majoochi's declarations, they might be evidence that he said so, but they could not be evidence of the truth of what was so said. As it was, he was of opinion that they were not evidence.

The Counsel were directed to withdraw.

The Earl of *Carnarvon* said, that with respect to the judgment of the courts below, he would not stop to consider what evidence they would receive or reject; but he thought their lordships stood in a situation different from the courts below, and different from all other tribunals; and he thought that what they had to consider was the simple naked question, did the evidence now offered bear upon the case? did they think it of importance to the great and important cause? If they did, how could they for one instant reject it; or rejecting it, how could they talk of even-handed justice? What was the character of the proceeding before them; what was its origin; who were its instruments? Was it an English or a German proceeding? The noble earl opposite had, on a former day, boldly stept forward and avowed, that he was responsible for the measure. In the course of the proceeding of that day, it was pretty evident that, mixed up with this proceeding, there was much German agency; there appeared about it the active interference of the minister of the king of Hanover, who was also the sovereign of this country. Agents—foreign, corrupt, and irresponsible agents had been employed to corrupt and suborn witnesses on one side, and to tamper with the witnesses for her majesty. These facts stared them in the face. Were they true? If not, let them be inquired into. But would any noble lord vote for this extraordinary bill, without satisfying himself whether this vicious agency had been employed or not? He would wish to know whether they sat there as the peers of England, or the miserable instruments of the government of Hanover? If the ministers intended to press the bill through the House, he was convinced they could not do their duty without sifting this suspicious affair to the bottom. If they proceeded one step further in the inquiry, without receiving all the evidence that they could receive on this head, they would not do their duty to the country nor to themselves.

The Duke of *Hamilton* said, he would not enter into any consideration as to the technical difficulties that might stand in the way of the production of these letters. He would speak to a plain matter of fact. These letters were of a material importance to the defence of an accused party, who stood exposed to a bill of Pains and Penalties. Would they refuse to receive that evidence? If any one point in the whole case was more anxiously avoided than another, it was the Milan commission. He should have thought that the noble earl opposite would have told them that this important question should be examined with the utmost impartiality, and that he would have divested the British government of any concern in transactions which could not be referred to without pain and disapprobation. This bill of Pains and Penalties stood opposed to every principle of the British constitution. He was happy, therefore, to have that opportunity to protest against it. He did so upon the broad principle, that such a bill was subversive of the British constitution Opposed to this bill of Pains and Penalties, her majesty stood in a situation different from the situation in which other persons would have stood. If their lordships felt for her situation—if they meant to investigate the truth—if they meant to satisfy the feelings of the country, they would afford ample opportunities to her majesty to expose that conspiracy which they had so much reason to suppose existed against her. Their lordships would not do justice to the case of

her majesty, if they refused to receive this evidence. He would therefore move that the papers be received.

Earl *Grey* said, he had always felt and declared that a bill of Pains and Penalties was a proceeding which nothing could justify, but a question of state necessity. Such necessity was not proved on the present occasion. Entertaining this constitutional feeling against the bill, he had stated it at an early period of the proceeding. Their lordships thought otherwise, and having agreed to proceed on this bill, they had sat there for a period of from 40 to 50 days, hearing evidence for and against it. Were they now, in the last stage of this proceeding, to depart from the rule which they had followed throughout? It was stated by a learned lord, in which he thought every body must concur, that according to the rules of law, this evidence was not admissible. The question was, was the evidence tendered, so material to their decision as to induce them to depart from the rule which they had originally made? His noble friend had said, that an inquiry into the character and conduct of the Milan commission was of great importance. He concurred with him; but the present was not the moment most convenient to institute that inquiry.

The Earl of *Carnarvon* said, he was ready to admit that they ought, as much as possible, to adhere to the rules of evidence as followed in the courts below; but when they assumed the station of a legislative body, the object of their inquiry ought to be in the first place, to promote the cause of truth and justice. To this great object every inferior consideration ought to yield. The question before them was not a judicial, but a legislative measure; and on this ground their lordships were bound to see whether the evidence had come fairly before them, or whether corrupt and miserable arts had been employed to suborn that evidence and to pervert the ends of justice? In his opinion, their lordships were not bound down by the technical rules of law. The spirit of exalted justice alone should guide their proceedings. Proceedings in courts of law in ordinary cases had, in fact, no relation whatever to the proceedings before them. Would they stifle inquiry, where inquiry was so anxiously called for by an abused and complaining party? In his opinion, they would forget their duty if they should shrink from an inquiry necessary to the attainment of justice.

Earl *Grosvenor* said, he was one of those who felt that the House ought to have gone into a full inquiry on this head. But as they had not done so, he did not think that, at the present moment, they could take up the subject; the more so, because the inquiry would be of a partial and imperfect nature.

Lord *Holland* suggested, that if this evidence was to be received, it would then be incumbent on them to go further into the new inquiry which would by that means be opened. For his own part, he felt himself quite exhausted by the length to which the main investigation had already extended. His reason, however, for the vote that he should give on this question, was—and it would afford him great satisfaction to find that others were equally influenced by the same reason—that he was determined to vote against the bill itself, on principles which had often been maintained in that House on former occasions. He did think also, that no man could give an honest vote the other way, without first sifting and examining every part of the subject, and acquainting himself with the real means by which this prosecution had been set on foot. He himself, indeed, felt no desire for such an investigation; he wanted not, after so long an inquiry into the conduct of the Queen, to be led into an inquiry as to the proceedings of Hanoverian ministers. Those, however, who proposed to say content to the second reading of a bill like this, were bound to assure themselves that it had been brought forward by just, legitimate, and constitutional means.

The Marquis of *Lansdown* agreed that the evidence in question was not admissible, in consequence of the rule which they had themselves previously laid down. But it was one thing to say, that the evidence in question formed no material part of the inquiry, and another to say that, in accordance with this rule, they were prevented from receiving it. Their lordships had, during the course of these proceedings, rejected evidence tendered in support of a charge of conspiracy on the one side, and were bound, therefore, to exclude it on either side. It could not be becoming to receive it at this closing stage of the general inquiry. Undoubtedly, some amongst them had a deep interest in the production of this evidence, and more especially the noble earl opposite, who had said, that no foreign minis-

ter, whatever had been authorized to interfere in this business, and that the whole had been left to the conduct of the Milan commission. But it was not on that account, or for the gratification of any noble lord, that the House ought to be induced to depart from the rules which it had laid down. Inconvenience might, no doubt, be experienced, but it was only a part of that general inconvenience which had attended the whole of this proceeding, and he feared would continue to attend it till its close. It was evident that this circumstance would entitle the illustrious person accused to a favourable consideration on the second reading of the bill, but he felt himself compelled to negative the present motion.

The House divided: Contents, 16; Not-contents, 145: Majority, 129. The Counsel were called in, and informed, that the Letters offered could not be received in evidence. The further consideration of the Bill was adjourned to Thursday.

HOUSE OF LORDS.

Thursday, November 2.

The order of the day being read for the further consideration and second reading of the Bill, intituled, "An Act "to deprive Her Majesty Caroline Ame- "lia Elizabeth, &c."

The *Lord Chancellor* rose, and addressed the House as follows—*

My lords; the question which we are now called upon to decide—and I apprehend, notwithstanding all that has passed in the course of these proceedings, it is the only question, which we are now called upon to decide—is, whether this bill shall or shall not be read a second time? Suggestions have certainly been offered as to alterations in the bill, which would make it of a very different nature; but as it is not consonant to the practice of this House — a practice founded upon sound principles—to receive any such suggestions in the present stage of the measure, there is no other question before your lordships than this—Whether the bill shall or shall not now be read a second time?

My lords; you will probably be disposed to adopt the ordinary course, which is followed in regard to bills which, in some respects, are like the bill now before us;—I mean bills of divorce. The ordinary course as to such bills is this: you first hear the proof of the allegations contained in the bill: you afterwards hear the other side. The person, who has the honour to sit on the woolsack, then retires from the table, and states his opinion, according to the best of his judgment and ability, and the grounds on which he is induced to entertain that opinion. If he should be of opinion that the allegations in the bill are proved, of course he intimates that opinion to the House. If any noble lord entertains a different opinion, the question becomes the subject of discussion and debate, and is ultimately determined by a division. If no such difference of opinion exists, the bill is read a second time as a matter of course.

I have examined with attention all the precedents which appear to have any application to the present case, and it may perhaps be sufficient for me to state to your lordships, that it is not unusual in the committee on a bill of divorce to postpone the preamble of the bill until the other parts are considered. This postponement does not always take place. When the question "that the preamble be postponed" is put, it is competent to any noble lord to oppose that motion, and to insist that the preamble shall not be postponed. Whether the preamble is or is not postponed, it may be altered or amended, as well as may also the enactments of the bill itself. But then that alteration or amendment in the case of a bill such as that now before us, ought to be limited to a mitigation, and not extended to an increase, of the severity of the original measure.

Having stated thus much, my lords, with respect to the usual course of proceeding, I hope I may be allowed to declare—and I am sure I speak with sincerity—that I would not have addressed your lordships on this question, if I had not felt that, in the situation in which I stand, I could not consistently with my public duty, retire from the performance of that task. There are many, many considerations, which would have induced me not only to withdraw from, but not even to come near this discussion, if it were not, as I have already said, for a sense of my public duty, which, I trust in God, is a right one, although I confess that the necessity which I am under of

* From the original edition, printed for John Hatchard and Son, Piccadilly.

performing it, distresses me exceedingly. Whatever may be the consequences, I feel that I ought not to shrink from discharging it; and therefore no personal consideration or private feeling shall prevent me from discharging it with fidelity.

In the outset, my lords, I take the liberty of observing, that no man can consistently vote for the second reading of this bill, if he does not think, that the substantial parts of the preamble of it have been satisfactorily proved. It is my decided opinion, by which of course I must be governed in my own conduct, that I ought not to vote for the second reading of this bill, unless I am satisfied that the fact of an adulterous intercourse has been fully established. Of course, I do not think that any noble lord ought to vote for the second reading of this bill, unless he is satisfied that the fact of an adulterous intercourse has been fully established.

I shall now, shortly, and by no means in detail, advert to the evidence which has been adduced with reference to this bill. It is not my duty, as has been erroneously supposed, to "sum up" that evidence, in the manner of a judge, at an ordinary trial. My duty is only to state my opinion to your lordships and the reasons on which that opinion is founded; for we are all here, my lords, as judges and jurors; and we must proceed, not on any principle of summing up the evidence, but on that of communicating to one another our opinions, and discussing the grounds upon which those opinions have been formed.

In the first place, however, I wish to notice the nature of the measure. Much has been said in the way of objection to that species of parliamentary proceeding, denominated a bill of Pains and Penalties. I will not detain your lordships by a long disquisition on the merits or demerits of such bills. I wish, nevertheless, to say a few words respecting them. It has been repeatedly declared, in the course of these proceedings, that such bills are not justifiable, unless in cases of extreme necessity; in which the safety of the state is imminently endangered. Now, my lords, in looking back as far as the period of the Revolution, and I wish to confine myself within that period, I find that such bills have been passed, over and over again, when there has been no such urgent necessity—no such pressing state difficulty. In some instances, indeed, such a necessity has existed; but there are a great variety of cases, in which there appears nothing of the kind. In a former discussion on this subject, I took the liberty of saying, that a bill of Pains and Penalties, provided the proceedings are properly conducted, is more favourable to the accused than impeachment—I am not asking at present whether it is or is not more constitutional—than an impeachment. When I say "if the proceedings are properly conducted," I mean when the inquiry is carried on according to the ordinary rules of evidence, and the decision is governed by the ordinary principles of law. What is the nature of an impeachment? In an impeachment, the proceeding in the House of Commons must be an *ex parte* proceeding. One vote must decide the question; and, if that vote should be erroneous, the error is final. The proceeding is not similar to one before your lordships. In the House of Lords, we have the means of pursuing an inquiry according to the ordinary rules of evidence, given upon oath, and we are governed by the ordinary principles of law. In the House of Commons, there are no such means; yet without those means they are to pronounce, whether the accused person is guilty or not guilty. That question is decided by only one vote; and, if that vote should be erroneous, the error is without remedy. But how is it, my lords, in the case of a bill of Pains and Penalties? In the first place, the question undergoes an examination in both Houses,—not, as in the case of an impeachment, an *ex parte* examination in the House of Commons; but an examination, in which the evidence is heard on both sides; an examination, in which an opportunity is afforded for scrutinizing the facts; an examination in which the error of to-day may be corrected to-morrow, and the error of to-morrow corrected the day after.—It has been urged, and with considerable weight, that by adopting the present course of proceeding by a bill of Pains and Penalties, we submit the judgment of this House to the judgment of the House of Commons. But, my lords, are we not doing this, in the case of every Divorce bill, and of every other bill, which originates in your lordships' House?—(I do not state now whether this will be a divorce bill or not; that is a subject for after-consideration), the case might have been much more ano-

malous—had the proceeding been first by impeachment, and afterwards by a bill brought in upon the verdict of guilty in impeachment. If that mode of proceeding, by two measures instead of one, had been adopted, might you not have involved the House of Commons in a contradiction, if either on a bill originating with them after a conviction on an impeachment, or on a bill so originating with this House, the House of Commons examining evidence on both sides of the question, should come to a different conclusion from that upon which they voted the impeachment, upon hearing the evidence of one side only?

But, passing this by, I come to another objection which has been made, and made with much emphasis, to the course that has been pursued in this case; namely, that the accused party was not furnished, in the first instance, with a specification of the charges, and with a list of the witnesses by whom those charges were to be supported. I mention this, my lords, because it has been argued that, in consequence of this omission, the party accused has been placed in a situation of difficulty; and because I am perfectly ready to acknowledge that, when it shall appear that any such difficulty has existed, it is your lordships' duty to give to the party accused the benefit of that fact, and proportionably to incline in her favour. But we ought not to raise up visionary difficulties where no real difficulties exist. My lords, I ask in what possible way could the list of witnesses have been communicated so effectually as by producing those witnesses at your lordships' bar, and then postponing the defence, which the accused party was called upon to make, to the period, to which that party wanted or chose to postpone it? I am prepared to admit, that the immediate cross-examination of a witness may be of great advantage; and, with regard to the absence of Restelli, I have already given my opinion; but I say, that the loss to the accused party of an immediate cross-examination, is by no means equal to the benefit of hearing the whole case and trial as against her, and then giving her the opportunity of meeting the charges, and commencing her defence whenever she pleases. The benefit derived from the one privilege is next to nothing, as compared with the immense benefit resulting from the other.

My lords; you are, in this important case, bound to attend to one of the great principles of British justice—principles, which are inseparably connected with every part of our constitution; and which, if you once relinquish them, I fear you will never regain, or find any thing to console you for their loss;—I mean, that in every case of charge, you are to recollect that accusation is no proof of guilt. An accused person may, nevertheless, be an innocent person; and your lordships are bound to consider an accused person an innocent person, until guilt has been satisfactorily proved. So also, either in this form of proceeding, or in the way of impeachment, or under whatever shape an accusation may assume, it is your lordships' bounden duty to pronounce an accused party innocent, unless you are perfectly satisfied, that the guilt of that accused party has been established by evidence. You are, likewise, my lords, in looking at the nature of the evidence, to consider the peculiar difficulties which may belong to this case. My lords, you will recollect it has been urged, that there has been, and there may have been, and indeed it may be taken for granted that there has been, much more facility with respect to the production of witnesses in support of the charges than with respect to the production of witnesses in answer to them. Of that fact, if your lordships are of opinion that such is the fact (and I do not say that it can be denied) the accused ought to have the full benefit. Your lordships have also to consider the circumstances, which have been disclosed with reference to Restelli. The imputations upon him may have been founded in mistake; or, on the other hand, there may have been—there have been, if you please—corrupt endeavours on the part of that and of other individuals to produce, by bribery and subornation, testimony in support of the allegations in the bill. Of that fact also, if it be a fact, the accused ought to have the full benefit; not only as it may operate to induce your lordships to lay aside that particular testimony, to which it directly applies, but as it may operate to induce your lordships to regard with some suspicion the testimony even of those witnesses, to whom it does not directly apply. Of all these considerations the accused party ought to have the full benefit. Your lordships ought to approach the consideration of the evidence with all that sincere disposition to scrutinize the testimony, that has been adduced in support of the accusa-

tion, which is justly due to the illustrious individual accused.

But, my lords, the ground of the opinion which I am about to state to your lordships is this:—Laying aside all the testimony in this case, which can by possibility be suspected, I ask myself this question—"Does the unsuspected evidence, which has been produced in support of this bill, and does the testimony which has been produced in reply, together with the negative evidence, or the want of that evidence, which might have been produced in reply;—I say again, laying aside all evidence liable to suspicion, or which has been contradicted, does the unimpeached testimony, which has been produced on the one side, connected with the positive testimony, and the negative testimony, or want of evidence, which might have been produced on the other, support the allegation of an adulterous intercourse, or does it not?"

The course which I shall take, is of this nature; and I am now about to state the opinion, which, after the most painful and anxious attention, that course compels me to form.—I apprehend then—at least, my lords, so it seems to me—that, if we look at one or two of the cases, or circumstances, which have been proved at your lordships' bar, by witnesses entirely beyond suspicion; to whom suspicion has never attached during the whole of these proceedings; and, if we then look at the situation and history of the person, with whom the act of adultery is alleged to have been committed;—it appears to me, from this view of the subject,—I am very sorry to say it, but I cannot shrink from the duty of saying it,—that we cannot possibly draw any other inference, but that there has been an adulterous intercourse.

My lords; with respect to the negative evidence for the bill—the want of contradiction to the evidence in support of the bill—it is my duty to say, that I have frequently thought more effect has been given, than ought to have been given, in what is called the summing up of a judge on a trial, to the fact, that there has not been the contradiction on the part of the defence, which it is supposed the witnesses for the accusation might have received. For, my lords, we ought to look at the circumstances of a case, in which this absence of contradiction occurs. It may often happen that, in the course of a trial, circumstances are proved, which have no bearing on the real question at issue; and it may also happen, that facts are alleged and sworn to by witnesses, which it is impossible for the accused party to contradict; circumstances may be stated by witnesses, which are untrue; yet they may not be contradicted, because the party injured by them, not expecting that that which never had any existence, would be attempted to be proved, cannot be prepared with opposing witnesses. So also, in cases, in which an individual witness speaks to occurrences, at which no other person was present but himself. There it may be absolutely impossible to contradict him. But, my lords, in a case, in which the facts sworn to by a witness, are sworn to have occurred in the presence of many individuals, and, when those individuals (which we know to be the case in the present instance) who are within the reach of the party whose interest it is to contradict such testimony, are not produced, then the want of that contradiction becomes a matter of great importance, and for many reasons. I have no right to impute to any man that he has given false and perjured testimony, when other persons were present at the period, to which his testimony refers, whom I have the power to call, but whom I decline calling. Unless I call those persons to contradict the witness, he is clearly entitled to credit. In my opinion, such a circumstance is a tacit admission of the fact by those, whose interest it is to contest and deny it. If they do not contradict the fact by testimony, which they have the means of producing, they tacitly admit, that it is incapable of contradiction. The party who declines to avail himself of such an opportunity of disproving the evidence on the other side, so far from being entitled to impugn that evidence, confers additional credit upon the testimony which he thus leaves uncontradicted.

Now, my lords, give me leave, for a moment, to lay out of the case all the evidence of Majoochi. Give me leave, for a moment, to lay out of the case all the evidence of Demont. And, when I desire that your lordships will allow me, for a moment, to leave the evidence of those persons out of the case, I do not presume, or mean to intimate (although there may be some, and if your lordships please, many contradictions in their testimony) that those persons have not, in many respects, spoken truth; and truth of very great importance. But I say, my lords, permit me, for a moment, to lay all

the evidence of those persons out of the case; and then travel with me to the polacre.

Who is it, my lords, that goes on board the polacre with her royal highness? There are Schiavini, and Hieronimus, and the countess Oldi, and Mariette Brunette, and Carlino, and Camera, and William Austin. I ask your lordships, if you can for a moment doubt, that, if the mere question before us were, whether her majesty and Bergami slept under the same tent, or awning, or whatever you may be pleased to call it,—if the simple issue, which we had to try were, with reference to that fact alone, your lordships could have any difficulty in deciding, as the fair result of the evidence which you have heard at your bar, that that fact is beyond the possibility of disbelief? (I forgot to mention in the proper place, that lieutenants Hownam and Flinn, also accompanied her majesty on board the polacre.) My lords, I repeat, can any man doubt that, if the mere issue were, whether her majesty and Bergami slept for five weeks under the tent, or awning, on the deck of the polacre, during the voyage from Jaffa to Porto d'Anza, the fact of their having done so, has been clearly and indisputably established?

In the first place, with respect to the evidence of Paturzo the mate, and Gargiulo the captain of the polacre, I know of no observation which can be made on the evidence of those two witnesses, with a view of disqualifying them, except that which arises out of the compensation they are to receive for coming to this country. [A noble lord remarked that something more had been objected to them.] A noble lord says, that something more has been objected to those witnesses. I can only state that, whenever I hear what that something more is, I shall give it every attention in my power. As many opportunities will offer for the correction of my opinion, I will not fail to correct it, if that which I may have overlooked, in the case, should render it my duty to do so; and I shall be very thankful to any noble lord, for whatever remarks may enable me, either now, or at any future stage of the bill, to detect and declare any inaccuracies, into which I may have been led. At present, I can speak of the case only as I know it; when I obtain better information, on that information I will act. I say, then, with reference to the two witnesses, Paturzo and Gargiulo, that I think the compensation which they have received for coming to this country, is a consideration of little or no consequence. I am in the presence of those, who know that it is impossible to obtain foreign witnesses, without dealing with them in a manner different from that in which witnesses of our own country may be dealt with. You have no compulsory process, by which you can bring foreign witnesses into any of your courts. Foreign witnesses are not within your jurisdiction. When our countrymen attend as witnesses, in our own courts of justice, I understand that they are not, generally speaking, paid for their loss of time. Lawyers and physicians, I believe, are persons whose case is an exception to this. But foreign witnesses cannot be compelled to come here; and it is therefore necessary voluntarily to pay them for their loss of time, or they will not come.

What have Paturzo and Gargiulo sworn? I fear I should fatigue your lordships were I to enter into the minute details of their evidence; and I will therefore be brief in my observations upon it. Give me leave, my lords, to suppose, then, that those two witnesses, Paturzo and Gargiulo, have proved the fact—I state it at present only as an hypothesis—of her majesty's and Bergami's having slept under the same tent, on the deck of the polacre, for five weeks, during the voyage from Jaffa to Porto d'Anza.—Supposing this to be untrue, how easily might these two witnesses have been contradicted by other witnesses. Instead, however, of having been contradicted, the fact has been confirmed by the admission of lieutenants Flinn and Hownam; and not only has it been proved by their admission, but the manner in which the proof was obtained from them, at the close of their testimony, afforded a pretty strong hint, when we recollect the reluctance, which they manifested on the occasion, how material the fact was in their estimation. But, if the evidence of Paturzo and Gargiulo were untrue; if Bergami did not repose with her majesty under the tent of the polacre, might not the falsehood of their testimony have been easily proved by the testimony of every one who slept below? Who did sleep below? The countess Oldi, the maid-servants, and all the persons, whom I have already named. Such being the case, if Bergami actually slept below, is it possible to believe that your lordships would not have had evidence to that fact?

We now, my lords, come to the consideration, whether, if these parties slept under the tent, your lordships think, that from that circumstance, and from various other circumstances, resting, as I have before observed, on the evidence of unimpeached and unsuspected witnesses, you will be justified in drawing the inference that the act of adultery did actually take place.

In considering and determining this question, your lordships will, no doubt, feel it to be your duty to keep in your recollection the various circumstances that are sworn to have occurred, not only on board the polacre, but at Aum, and at other places. You will keep in your recollection, the measures taken to secure a contiguity of bed-chambers in almost every place which her majesty and Bergami visited. You will keep in your recollection the circumstances of familiarity, which have been sworn to, and which, though they do not in themselves afford any direct proof of adultery, are important, as evincing a tendency to that intercourse, which the parties are charged with having carried on. You will keep in your recollection all the extraordinary circumstances connected with the sudden elevation of Bergami; and not merely of Bergami, but of almost every other individual of his family. You will keep in your recollection the very important fact of the introduction of the countess Oldi into the establishment of her majesty, as a person of quality, without its being known that she was the sister of Bergami; no communication to that effect having been made by her majesty to any of her family. This is, indeed, a most material circumstance; for, as the interposition of the countess Oldi's chamber between her majesty's room and Bergami's, would, if she had been a stranger, have been a strong fact to show the innocence of the parties accused; her being the sister of Bergami, and placed in that situation without any knowledge on the part of the rest of her majesty's family, who she was, is a fact, from which, at least, your lordships cannot infer any innocence of intention.

I would now direct your lordships' attention to the evidence of Gargiulo, the captain of the polacre, at page 117 of the Minutes. Your lordships will there see, that, after speaking of the distribution of the cabins as having been made by him, previous to the outward voyage, Gargiulo states—and he has not been contradicted—that certain alterations were made in the arrangement of the cabins by her majesty; and that the change was of such a description, that the Queen could see Bergami from her bed, and could be seen by him from his.* This testimony, I repeat, has not been disproved. I will now draw your lordships' attention to a part of the evidence of lieutenant Flinn. Lieutenant Flinn states, that on the outward voyage, the management and distribution of the cabins, in which the different persons composing her majesty's suite were to repose, was left him. He states the situation in which those different persons slept on the outward voyage. He knows where every one of them slept on that voyage. Now, I ask your lordships, to put this question to yourselves, when you read lieutenant Flinn's evidence: "How can it be accounted for that this man, who gives such direct and accurate evidence as to all these matters on the voyage outward, knows nothing, or next to nothing, with respect to them on the voyage homewards?" Looking at this, and remembering how the fact has been proved by other uncontradicted witnesses, can any inference be drawn but one—namely, that on the voyage homeward, the parties in question did sleep under the same tent or awning together? In the evidence of lieutenant Hownam, I remark the same backwardness to speak on the subject that is observable in the evidence of lieutenant Flinn. How often was lieutenant Hownam asked, where the different parties reposed, before he admitted that her majesty and Bergami slept under the tent! If, as has been asserted by lieutenant Hownam in another part of his evidence, there existed any necessity for such an arrangement, so that it might have been accounted for in a manner not discreditable to the illustrious individual accused, how comes it, my lords, that these two gentlemen, cognisant as they were of the direct evidence which had been given on the subject, were under such difficulties in stating the mere fact to the House?

My lords; it has been sworn by the two witnesses, to whom I have already alluded, that her majesty and Bergami were seen seated on a gun, and on a bench, on the deck of the Polacre, with their arms round each other, and kissing. That also has not been contradicted. Give me leave to say, my lords, that, unless I have greatly

* See Vol. 2, p. 917.

misunderstood the nature of every divorce case that has been before me, either in this House, or in the courts below (but, few such cases, in comparison, have been before me in the courts below; many more have been before me here than I could have wished to see), from such an established fact as the parties sleeping under a tent together for five weeks, added to the circumstances of great familiarity, which have been proved to occur between them, and which, although not sufficient evidence of an adulterous connexion, in themselves show, in the language of the Books, that when to the *oscula* and the *amplexus* were added the *tempus* and the *locum*—a time and place, in which the adultery may be committed, and probably would be committed, the certain and constant inference would be, that an adulterous intercourse had taken place. For, my lords, it must always be remembered, that in cases of alleged adultery, the question is not, whether the parties have been detected in the actual commission of the act, but whether circumstances have been proved, from which a reasonable and plain man, in the due exercise of his understanding, cannot avoid drawing the conclusion that the act of adultery must have taken place.

If your lordships look at the evidence, you will also find it stated, that the tent was sometimes closed in the day while her majesty and Bergami were under it. Lieutenant Hownam denies this; he says that the tent was never closed by day. But look at the evidence of Gargiulo. Gargiulo was asked, by whose direction the tent was closed in the day; and his answer, as your lordships may remember, was, that it had been closed in the day by the direction of Schiavini. Now, I beg to ask your lordships, I beg to ask any man of professional experience, if the testimony of Gargiulo and Paturzo ought all to be thrown away, in consequence of the bargain made to remunerate them for coming here, when it is clear that they might have been so easily contradicted, if what they stated was other than the truth. When Gargiulo is asked, who gave him orders to close the tent during the day, he replies—Schiavini. Now, my lords, did Schiavini give those orders, or did he not? If he did not give them, why was he not called to your lordships' bar to contradict Gargiulo? As this has not been done, the fair inference is, that he did give those orders, and thus the evidence of Gargiulo is confirmed. It has been said, my lords, that there was a necessity for Bergami's being under the tent at night with her majesty. There is not in the evidence, however, the slightest trace of any proof that such a necessity existed. But, suppose it to have existed, what was the meaning of shutting up the tent, according to Gargiulo's uncontradicted evidence, two or three times a week during the day, and of her majesty and Bergami's retiring to it for an hour or an hour and a half together? What necessity could there be for that? The weather at the time is said to have been perfectly calm; the sea quite smooth and unruffled; the air so light, that the polacre hardly moved but with the tide. Where then, I again ask, could be the necessity for letting down the tent, with Bergami in it, during the day?

My lords; I will not consume your lordships' time by going through the whole of the circumstances that passed on board the polacre. But I must once more call your attention to this fact,—that, if the evidence respecting those circumstances were false, a number of persons were on board, who might have been called, but who have not been called, to contradict it. There is one important circumstance, however, which demands your particular notice; I mean the communication between the tent or awning on deck, and the apartment below. It has been attempted to be proved, by the evidence of lieutenant Hownam, that that communication was always open. But is that the fact? The evidence of the captain goes directly to contradict it. But, my lords, open or shut, was there any necessity that the mouths of all the persons below should be shut? Why have not the persons who slept below, been called to contradict the evidence of the captain and the mate of the vessel? It has been said, that their nerves are too delicate to meet a cross-examination. My lords, that is a reason for their non-appearance, on which it is impossible for your lordships to act; and you must therefore dismiss it altogether from your consideration. The fact, therefore, of their not having been called, remains a circumstance, which strongly affects the case for the defence.

And here, allow me to state, my lords, that the whole of the events, which occurred on board the polacre, are not to be viewed by themselves; for in cases of this nature, where the act of adultery is

not positively seen, it is only by a combination of circumstances that it can be proved. This leads me to request that your lordships will look a little with me at the case of Aum. Allow what you please for the state of fatigue in which some of the witnesses represent her majesty to have been on that journey; and I then ask, what could have induced any person, who had the slightest pretension to character, having one tent within another, and in the interval between them two individuals, Theodore, and Carlino (who by-the-by has not been called) sleeping as guards; the one on the one side, and the other on the other,—what could have induced such a person, so situated, to have a man reposing with her in the inner tent? She was perfectly free from danger; and what possible occasion could there be for Bergami's being taken into the inner tent? Her majesty was sufficiently guarded without the presence of Bergami. There were no squalls,—no shippings of a sea,—no sudden heelings of the vessel to apprehend. It certainly, therefore, appears to me, that the occurrence at Aum, of the same species of fact which took place on board the polacre, is a circumstance, which ought to be of great weight in confirming the only natural inference that is to be drawn on the subject.

The case, however, does not rest here. Let your lordships consider the management respecting the contiguity of the sleeping apartments of her majesty and Bergami, which commenced at Naples, and which continued until their return from the long voyage; and ask yourselves what it could mean? Annex to it whatever meaning your lordships please, and I then ask, why were not all the persons who must know the real circumstances of the case, called to your lordships' bar to explain them? Why was not the countess Oldi called? Why were not Hieronimus, and Camera, and all those other persons called, whose names must immediately suggest themselves to your lordships' minds? And then, my lords, come the extraordinary circumstances respecting Bergami's rapid rise, and not merely his rapid rise, but the character, the merits, and the qualifications of the person so hastily elevated. My lords, there is a wide difference between such an elevation, and the case of an individual promoted, after a long life of labour, of exertion, and of fidelity, perhaps to the highest situations in the army, the navy, the law, or the church. It is one of the greatest blessings of our glorious constitution, that the highest stations in this country are accessible to those, whose merit and talents render them worthy of pre-eminence; although they may begin the world in indigence and obscurity. But that view of the subject is wholly inapplicable to the case of the individual in question; who has not only himself been raised to distinction; but every member of whose family, with one exception only, has shared in the prosperity, which has attended him. Look, my lords, at the evidence of sir William Gell, Mr. Keppel Craven, and Sicard. Sicard, a witness who gave his testimony in a manner highly creditable to his character, says, that he understood Bergami to have been engaged as courier to go only as far as Naples, but nothing more; Mr. Keppel Craven says, that Bergami was told he might expect to be promoted to be a servant out of livery, if he behaved well; and sir William Gell's evidence is, that a hope was held out to Bergami that he would be gradually advanced. How does this accord with all that subsequently happened? Did Bergami remain in that state of humble hope and expectation? Let your lordships look at what occurred within twelve months, and I then ask you, if you ever knew or heard of such an instance of promotion in the world; not only as it respects the elevation of the individual himself, but as it regards the introduction into her majesty's service, and necessarily to the exclusion of all other persons, of every member of his family, to the number, I believe, of ten or twelve, with one individual exception, and that exception—his wife? My lords, these are circumstances, at least of extreme singularity; and I leave your lordships to draw your own conclusions from them.

But, besides all this, your lordships will find in the Minutes of the proceedings in support of the bill, that there are eight or nine witnesses, every one of whom, with reference to his character, and to the facts to which he deposes, remains unimpeached and uncontradicted; unless, indeed, your lordships act upon bare suspicion, suggested in argument before your lordships, but for which there does not appear any ground whatever. All those witnesses speak to circumstances of familiarity between her majesty and Bergami, which may indeed have existed without any act of adultery having been com-

mitted; but which, if it be also shown that there were time, and place, and opportunity, are circumstances, that, combined with the constant contiguity of bedrooms, and the other strong facts established by evidence, must irresistibly lead the mind of every man of plain sense and common understanding, to the conclusion, that a criminal intercourse did actually take place.

My lords; it has been very justly asked, "Why is Bergami not produced?" The reply was, that he could not be produced; for that he could not be allowed to depose to his innocence of the alleged fact. That I deny. He might have been called, and, if he could, he might have so deposed. In the case which has been alluded to in the course of this inquiry, major Hook, the alleged adulterer, was produced, and deposed to his own innocence. Nay, my lords, there are cases recorded in your lordships' Journals, in which the adulterers have been called to your lordships' bar, to prove the adultery. What, then, is the just inference to be drawn, not only from the absence, as witnesses, of all the other individuals to whom I have adverted, but from the absence of a man, who, if her majesty is really innocent of the crime imputed to her, had an obligation imposed upon him by the mighty favours which he has received, by the splendid benefits which have been conferred upon him, more transcendent, perhaps, than was ever before bestowed upon a human being, to come here, and declare the truth in behalf of his royal mistress? If he might have come—if he had this powerful obligation to come pressing upon him—I ask why he did not come? If he could establish innocence, why has he not been required to come?

There are many other points, my lords, on which I have not touched, and on which I do not mean to touch; because I am very ready to admit, that if the great leading features of the case, to which I have directed your lordships' attention, do not satisfy your mind, you ought not to read this bill a second time. I will say nothing of the Sinigaglia affair; because, although it is impossible to reconcile the evidence of Carlo Forti and of Vassali together, yet so much doubt has been thrown on the testimony of Sacchi, that I cannot come to such a conclusion in that case, as I dare trust myself to act on. So it is also with reference to the case of Trieste. To many of the circumstances deposed with respect to that case, contradiction might have been given, which has not been given. But when I look at the evidence of Cuchi, the man who is called in support of it, and when I see him, not only speaking of her majesty's residence at Trieste for six days, but distinguishing the transactions which occurred on each of those days; and when I afterwards find that those transactions, if they did take place at all, must have been comprehended within the space of a day and a half, which was the extent of her majesty's stay at Trieste, I can place no reliance whatever on such a witness.

There are other parts of the case, however, and especially the occurrence at Carlsruhe, which are very important, and deserve serious attention. Your lordships have had Barbara Kress before you; a witness who, if we are to form any judgment of her from the manner in which she gave her evidence, is entitled to the highest credit. She speaks positively, and without any qualification, to a fact, which she says occurred on the evening of the second day after her majesty's arrival at Carlsruhe; and, although her evidence is capable of being fully contradicted, it has not been contradicted; unless your lordships consider the evidence, which Vassali gave at the close of his examination, as a contradiction of it. But, my lords, I cannot help thinking it very remarkable that this witness, Vassali, had been examined, and cross-examined, and re-examined, without having uttered a word—not a syllable—of having been present with her majesty during every hour of the evening in question, or of the splendid dress, in which her majesty was attired, until those circumstances were suggested to him by the question of her majesty's attorney-general; and he then builds up a minute account of the whole day, and of what passed in the saloon of the inn This witness is also liable to the observation, namely, that he remembers with great facility and correctness every thing that occurs at Carlsruhe, while he can scarcely remember any thing that occurs at Munich, and elsewhere. My lords, I cannot but think that the facts sworn to by Barbara Kress, and, among the rest, her having found her majesty's cloak in Bergami's bed, claim your lordships' notice.

The case of Catania also deserves your lordships' attention; and I am persuaded that, if your lordships carefully consider

all the circumstances of that case, you will find it very difficult not at least to approach to the belief, that something passed at Catania, that ought not to have passed.

Such, my lords, is the view in which I regard this great question. There are many points of the case to which I have not alluded, and to which I do not intend to allude. But, taking into my consideration all that has been sworn by unimpeached and uncontradicted witnesses; adverting to what passed, both while her majesty was on board the polacre, and before and after that period, at Aum, the Barona, the Villa d'Este, Carlsruhe, Catania, and elsewhere; referring to the various acts of familiarity which have been proved, and which there has been no attempt to deny; and recollecting the rapid and extraordinary promotion of this man and his family, and their having been all brought about her majesty's person, with the exception of his wife;—I cannot withdraw myself from what appears to me to be an imperative duty, namely, to express my firm belief that an adulterous intercourse has taken place. I express that opinion, because, although the positive act of adultery has not been seen, and could not be seen, it is the language of the law that, if the circumstances are such, that a reasonable and plain man, addressing his mind dispassionately to the consideration of those circumstances, and to the principles of conduct by which human nature is governed, cannot but infer the commission of the crime, it is sufficient; although the absolute fact itself has not been proved. Of the maxims of law, as to legal presumptions, I am sure. Whether or not your lordships think that such a case as that which I have described, has been made out, is another question.

One word more, my lords, and I have done. As to what has passed, or is passing out of doors, I will take no notice of it, for I am not supposed to hear it, or to know any thing about it; only this I will say, that, whatever has happened, or whatever may happen, I will perform my duty here. But, in the course of this solemn inquiry, your lordships have heard from the bar of this House, what I was very sorry to hear, and what I believe was never before addressed to a court of justice. Something like a threat was held out to your lordships, that if you passed udgment against the Queen, you would never have the power of passing another judgment. I do not profess to use the words of the speaker, but the impression is distinct upon my mind.* My lords, however that may be, I will take upon myself to declare, that an address of such a nature, such an address of intimidation, to any court of justice, was never until this hour considered to be consistent with the duty of an advocate; and that such an address, whether an advocate has a right to make it, or not, ought to have no effect whatever on your lordships.—You stand here as the great and acknowledged protectors of the liberties, the character, the honour, and the lives of your fellow-subjects; and you cannot discharge that high trust a moment longer than while you can say to one another,—and, for myself, if I had not a moment longer to live, I would say to you—"Be just, and fear not!" My lords, I know the people of this country. I am sure that, if your lordships do your duty to them, by preserving their liberties, and the constitution which has been handed down to you from your ancestors, the time is not far distant when they will do their duty to you; when they will acknowledge that those who are invested with the great judicial functions of the state, ought firmly to meet all the reproaches, to which the faithful performance of those functions may expose them; — to court no popularity; — to do their duty;—and to leave the consequences to the wisdom and justice of God, who guides the feelings and actions of men, and directs the course and consequences of all human affairs.—My lords; I have shortly stated my opinion, and the grounds of it. Having thus discharged my individual duty, it is for your lordships to declare what it is your pleasure to do with the bill before us.

Lord *Erskine* said—

My lords; I cannot but agree with my noble and learned friend who has just sat down, that we ought to consider with the utmost impartiality every branch of this most important subject in which we are so unhappily engaged; but I must be permitted to say, without intending, I am sure, to depart from the course he has recommended, that his view of the case was far from being impartial; as it assigned credit to witnesses who had been entirely discredited, and did not, in my

* See p. 210 of the present Volume.

opinion, give sufficient weight to the evidence in her majesty's defence—neither can I be supposed to differ from him when he declared that accusation was not guilt, and that innocence was always to be presumed until evidence justified or rather compelled a judgment of guilty; but here again, without questioning that ill felt and approved of immutable rule of justice, I have a right to assert and pledge myself to establish, that if this sacred principle had been adhered to by the authors of the bill before us, it never could possibly have existed; and yet when, from that manifest neglect of it, the people, with one voice, cry out against our proceeding, we have been implored not to suffer ourselves, in any manner to be influenced by their clamours, but to govern ourselves alone by the rules of evidence and the principles of law. My lords, I most readily admit, that if we were engaged on a strictly judicial proceeding, we could be neither guided nor influenced by any other rules. We should then be bound to say, and at all hazards, "*Fiat justitia ruat cœlum.*" No man amongst your lordships, were we deliberating in our judicial character, would stand more forward than myself to disregard popular interference; but we are in no such case: we are, on the contrary, engaged in our *legislative* capacity, and only act *judicially*, when we examine, as in all other acts of legislature, the facts on which we are to proceed; and, what is still more applicable as an objection to what we are doing, we are legislating only to punish a supposed national wrong, when the nation itself, the only party which we assume to be aggrieved, denies that any wrong has been committed.

My lords; in explaining my reasons for the vote which I feel myself bound to give on the only question that, upon the bill before us, can, at any time, be put from the woolsack, I am anxious to lay my breast fully open to your lordships, that the House and the country may know all that, from time to time, has passed through my mind from the commencement of our proceedings.

Upon the first movement towards them, immediately after the death of the late king, I was in a very distant part of the kingdom; and when I heard that her majesty, without accusation of any description whatsoever, was by an act of government suddenly deprived of the public prayers of the national church, I not only anticipated an immediate and well considered accusation, but took it for granted, that his majesty's ministers must have taken especial care, not only to be clearly justified in strictness of law for the measure they had taken, but that they were possessed of a corresponding proof which could admit of no doubt—I took it for granted, that they would not engage in so great a national cause on *ex parte* evidence only. Above all, of the description we have witnessed; but that they had examined witnesses of a higher order, whose stations and characters would have assured a safer judgment, and that the impending trial would be of the shortest and clearest description. I attended the House, therefore, on my return to London, with no adverse bias whatsoever, and when the papers were first laid upon our table I was prepared impartially to do my duty, as I still am now.

On the first debate that occurred, it was objected, with great force by my noble friends near me (lords Grey and Holland), that we were disqualifying ourselves by our mode of proceeding from our constitutional jurisdiction, if the other House of Parliament, on the examination of the same papers laid before them also should think it their duty to impeach her majesty the Queen; but to this it was answered by the noble earl opposite (Liverpool), in an able and powerful speech, which, totally unprepared as I was, made but too strong an impression upon me, that adultery with a foreigner beyond the seas not being high treason within the statute, and adultery not being a crime at common law, there was no misdemeanor to be the ground for an impeachment; and I remember that the noble earl then adverted to my own unsuccessful endeavours to amend that defect in our law. My lords, I confess I yielded at the moment much too readily to this doctrine, and thought we were therefore in the only course that could be pursued; but on the earliest examination of the subject, I saw clearly that I was mistaken, and recorded that mistake by a protest on the Journals. It was, indeed, quite plain, that as the adultery, if committed with a foreigner beyond the seas, was not high treason, it became for that very reason a high misdemeanor; although adultery in a woman being an ordinary subject standing in no relation to the public, but to her husband only, could not, as the law stood be adjudged to be a crime.

My lords; although my individual error at that period, could have been of no consequence, except to govern my own vote, yet I hold it to be my duty thus to acknowledge it; because I have always thought, that a reserve and backwardness in public men, when even with the best intentions they have acted mistakenly, has been a great source of public calamity throughout the world.

At this period, my lords, a secret committee was proposed, to which I saw no objection, as I thought it might be the means of averting any public proceeding, unless in a case when it ought not to have been averted; but before the committee sat, a great change had taken place, the House of Commons having refused to examine the papers lying before them, declaring with the full assent of the authors of this bill, as represented at least by the member of the administration in that House, that to examine them at all would be derogatory from the dignity of the crown and injurious to the best interests of the country. Nay more—to give conclusive effect to this declaration, they had addressed her majesty (whom we were preparing to accuse), with all the reverence due to her elevated rank, and to innocence which they desired might be considered as unimpeached; and they appointed a solemn deputation, under the auspices of one of their own members of the highest consideration, to present this liberal homage of the House of Commons. My lords, if the Queen had rejected this humane and liberal mediation, although it would not have removed my objection to the form of our proceeding, yet it would have gone a great way to justify its substance; but, so far from any such rejection, her majesty laid herself at the feet of that House, declaring her readiness to be at its commands in every thing, so as her innocence was not compromised, which the House of Commons had solemnly professed to hold inviolate; expressing by her learned counsel, that the termination of all differences under its powerful and liberal sanction, was the most anxious wish of her heart.

I assert, therefore, my lords, that his majesty's ministers ought instantly to have closed with this proposition and its acceptance, by restoring the Queen's name to the Liturgy, from which, even on the admission to-day of my noble and learned friend, it ought never to have been expunged—since how could that act be justified if, as he has truly reminded us "accusation is not guilt?" But instead of this just, this happy termination of so disgusting and so dangerous a proceeding, and although they could not but see an insuperable bar to its success in this resolution of the Commons to which they had even themselves assented; they still obstinately refused to retrace their steps—or rather without even retracing them they foolishly lost the occasion of escaping from the error they had fallen into, by conceding her restoration to the Liturgy not as their act but as a corrollary to the vote that had been passed; thus throwing it on the House of Commons and escaping by a side-wind themselves; since the least reflection must have shown any man, that the House of Commons could never concur in a bill of pains and penalties, after the resolution it had voted, and the address it had presented to the Queen; but instead of this, they notoriously employed all their influence to bring the House of Commons to a kind of reversal of its own declaration, since it is quite impossible to maintain that the innocence of the Queen would not have been compromised by her continuing to be excluded (above all by her own consent) from the public prayers of the church. I appeal therefore to every one of your lordships (whatever differences of opinion may prevail amongst us on other parts of the case), whether the view I have taken of this obstacle to what we are engaged in can be denied or questioned.

In this new state of things, I declined sitting upon the committee—not from any change of opinion as to the propriety of its original appointment, if a bill had been the proper proceeding; but because it had since become improper and useless, without the probable concurrence of the House of Commons to any bill that could be proposed; and how could I possibly expect such a concurrence, after the declaration, that the very examination of even the grounds for any proceeding "would be derogatory from the dignity of the Crown, and injurious to the best interests of the country."

One preliminary question, therefore, for your lordships consideration, even if you were supported by sufficient evidence most undoubtedly is, whether you should read this bill a second and a third time, only to send it down to the House of Commons, who would be bound to reject it as an affront. Can you be weak enough,

my lords, to expect, that though it refused to inquire, much more to impeach after inquiry, that it could now possibly consent to rescind its own decision, only because we have usurped their jurisdiction. And can we rationally wish, even if we could prevail in such an object, to bring the House of Commons into such a condition of humiliation and disgrace? They are the constitutional representatives of the people, whatever defects there may be in the forms of their elections; and what greater encouragement could be given to those (if any such there be) who seek the total subversion of the constitution, as by law established, than to have the positive proof,—which in that case they certainly would have, by the adoption of this bill—that their own votes and irresolutions were just nothing, when put into competition with the wishes of ministers to annul them, though their resolution had been seconded by the universal voice of the people? God forbid! my lords, that such a proof of corrupt servility should ever be made so manifest; and, on the other hand, so great a difference between this and the other House, by their probable adherence to their own opinions, and the consequent rejection of this bill, is what every reasonable man must wish, on all accounts, to avoid.

Now, my lords, as it is perfectly clear, that if the evidence were sufficient to support an impeachment, the House of Commons has an unquestionable jurisdiction —which we began by denying—in what condition are we now placed? The bill of Pains and Penalties no longer stands upon its original ground of necessity. We do not proceed in it because there could be no proceeding by impeachment in the House of Commons, but because the House of Commons had refused to impeach; since, if it refused inquiry, the refusal of impeachment followed; and as they objected to all inquiry into the evidence at the outset, could they possibly enter into it now, when national disgust and nausea were universal. We are therefore, my lords, engaged in a direct and palpable violation of the constitution; because, whether the king, as a husband, could or could not apply to us on the principle of a common divorce bill, yet it is impossible to maintain, that adultery in a queen consort, or of a Princess of Wales, if publicly and licentiously committed, to the scandal and dishonour of the nation, is not a national offence; and her majesty, therefore, if guilty was clearly amenable to the House of Commons, by impeachment, for a high misdemeanor; and for this reason, my lords, even if I gave credit to the evidence (which I do not), I should equally reject the further progress of this bill. I am now drawing near to the close of a long life, and I must end it as I began it. If you strike out of it, my lords, some usefulness perhaps, in doing my part to aid in securing the sacred privilege of impartial trial to the people of this country, and by example to spread it throughout the world, what would be left to me? What else seated me here? What else would there be to distinguish me from the most useless and insignificant amongst mankind? Nothing—just nothing; and shall I then consent to this suicide—this worse than suicide of the body, this destruction of what can alone remain to me after death—the goodwill of my countrymen hereafter—I DARE NOT DO THAT!—Proceedings of this kind, my lords, have never been countenanced but in the worst times, and have afterwards not only been reversed, but stigmatized. The instances were most eloquently stated to your lordships from the bar, and you were justly reminded, that they were ordered, by succeeding parliaments "to be taken off the file, and burned, to the end that the same might no longer be visible in after ages;" but upon that I desire to repeat an opinion which I remember to have expressed when at the bar, that instead of directing them to be burned, they ought rather to have been blazoned in our parliaments, and in all our tribunals, that, like the characters which, appearing on the wall, were deciphered by the prophet of God to the Eastern tyrant, they might enlarge and blacken in our sights, to terrify us from acts of injustice.

If the bill, however, is not, for these reasons, to be abandoned without any consideration of the evidence, the next question of course is, whether it be sufficient for its support? The Minutes have been delivered to us daily, and are in all our possessions; but I have scarcely seen the bill itself, where the charge is alone to be found, and to which all the proof must be applied, in the hands of any one of your lordships; yet it is all in bill; because the preamble does not charge one or more secret acts of adultery, but a public and scandalously licentious and adulterous intercourse, during the whole of the

Queen's residence abroad in various countries, the truth of which, or even any evidence whatsoever to establish it, I deny in the face of all England to have been laid before us. The preamble, which is one integral charge states, "that her majesty being at Milan in Italy, retained in her service Bartolomeo Bergami—that a degrading intercourse commenced between them—that she raised him to a high situation, and conducted herself towards him, and in other respects, both public and private, in the various countries and places she visited, with indecent familiarity and freedom, and carried on with him a licentious, disgraceful intercourse, for a long period of time during her residence abroad." Now, where is the proof of all this? and what has it come to at last? It has dwindled down to her sleeping under the same tent with her chamberlain, on the deck of a small polacre, during a short voyage in the Mediterranean sea. Not one of her attendants have been called to intimate even a suspicion of crime; and this solitary act, whether prudent or imprudent, was never known or heard of in the world, and never would have been known or heard of, had not this scandalous conspiracy been set on foot; since Gargiulo himself, though brought here partly from compulsion, and partly from the expectation of his 6,000 dollars, which Bergami would not pay him, did not venture to swear to his impression at the time, or that he had ever insinuated blame in speaking of it to others, until the Milan commission was established.

How, then, could this country and all Europe be scandalized on this account—how but by the course we are engaged in? Lieutenant Hownam, who must have been much better acquainted with every thing that passed there than we can be, had no feeling or impression, that any thing was criminal or indecent, and the different impressions which appear to be now made upon some of your lordships are not to be wondered at when we consider the insidious manner in which this charge originated, and the manner in which the grossest falsehoods have been collected and brought before us—I see no objection upon due grounds of suspicion, to the appointment of a commission of inquiry to be executed (as it must have been) abroad, so as we ourselves had afterwards been made the judges of all the circumstances attending its execution—I have already done complete justice to the character of Mr. Cooke, and I am a stranger to the other commissioners at Milan; but if, instead of their being only honest men, they had been angels sent down from Heaven, there are circumstances so clearly proved before us in the attempt at subornation, and the abstraction of Restelli to prevent others from coming to light, as to cast into the deepest shade the whole mass of the evidence, even if the witnesses had been able to support their testimonies without the contradiction they have encountered, and the palpable self-confessions of falsehood; objections so fatal to their credit, that after the whole has been brought before us for our final judgment, my noble and learned friend most properly disclaiming to pronounce judgment upon suspicious testimony, seemed principally to rest his sentence of guilty upon the testimony given in her majesty's defence. Let me not be mistaken. I do not mean to say, that my noble and learned friend did, in terms, admit his disbelief of all the witnesses for the bill, but that seeking properly to avoid all objections to the grounds on which he considered a judgment of guilty might be founded, he seemed mainly to rest it on the footing I have stated. Good God, my lords, consider only the favourable effect of this for her majesty's defence, when the judgment of a person whose authority, learning, and talents entitle him to such extraordinary respect, can lay its foundations on no wider an extent.—If, when at the bar, my lords, in support of any prosecution whatsoever, all my principal witnesses, one after another, had either totally failed me, or had been brought into such questionable and doubtful credit, would any judge have sanctioned my urging it farther for the chance of finding something which, though equally false, might not be within the reach of refutation? I certainly think not. Yet, is not this the very case before us? It stands admitted that her majesty reached Naples without imputation or suspicion of misconduct; and there the conspiracy seems to have commenced. On the first and second nights after her arrival there, when her destruction was secretly meditated, she had been attended in public by sir William Gell and Mr. Craven, who accompanied her to her apartments at a very late hour of the night. How, then, is it possible not to feel an abhorrence at Demont's evidence, who has sworn to her returning very early in the evening, vio-

lently agitated, as a preface to the other falsehoods which must be as fully in your lordships recollections as in my own—falsehoods which, if believed, amounted to the clearest proof of adultery, and which, of course, made the strongest impression upon me, when I heard them—an impression which must have continued, and on which I must have acted, but for the positive contradictions she received, and from the unequivocal admissions of these falsehoods by herself; for what admission can be stronger than her own letters, and her declaration to Madame Martigni, that her majesty was surrounded by spies, and that all that had been circulated, were their calumnies against her?

Leaving, then, such witnesses thus dead and buried, as I cannot but consider them, let us see whether any sufficient support can be derived from that part of the proof which remains uncontradicted, and which called for no contradiction, I mean the admitted elevation of Bergami, which I cannot view in the same light with my noble and learned friend. If, indeed, before the period of his elevation, credit were to be given to the indecent familiarities, much more to the acts of adultery at Naples, I should then have considered every step and stage of his advancement as strong proof of the continuance of an adulterous connexion; but when that is overthrown (and who now avows to act upon it?), his elevation could not weigh as any material proof in any of the courts, towards the establishment of guilt.—His advancements were undoubtedly marks of great favour, and may, according to the various opinions of the world on such subjects, become matter of remark; but, stripped of the false colours reflected upon them by false testimony, they amount to nothing in support of this bill; he had been strongly recommended, and though in an inferior military station, he had conducted himself as a man of honour and character, and his deportment, as proved by many witnesses, was uniformly most dutiful and respectful.—Now, even imputing his gradual advancement to a greater degree of favour than might have been advisable or prudent, it might nevertheless be entirely consistent with innocence; and the conferring upon him what has been called the order of St. Caroline at Jerusalem, this symbol of her pilgrimage has made a very different impression upon me, from that which it was brought before us to produce; it was an act of distinction, wholly unnecessary for the gratification of a criminal passion, and which a sense of guilt would, in my mind, have been likely to prevent. She had just entered, with the profession, at least, of devotion, the holy city where our Saviour suffered for the world; and the institution of the order, however unauthorized, was intended as a pious commemoration of it amongst those who had attended her. She may, indeed, even so circumstanced, have cast off all sense of divine favour, but I cannot impute this without proof.

I come now to what passed under the tent in the polacre, to which, in the end, the case seems to be reduced; and if, instead of her majesty having been there publicly attended by her chamberlain even in the night, another part of the vessel had been assigned to him, and he had been traced from it secretly in the night to the sleeping place of the Queen, above all, if any previous indecent familiarities had been established, or the incredible indecencies on the public deck could be credited, I should then admit that there would be a legal presumption of guilt. God forbid that I should invade any of the rules which, under the law as for ages administered, are the securities of domestic life; but, under the circumstances before us, and in the absence, from the just rejection of the antecedent proof of the degrading passion which the preamble charges to have existed, I do not think that the legal presumption is justifiable, or can reasonably attach. When they first went on board there was an arrangement of beds below, much more favourable to an adulterous intercourse, and which was only changed from the heat of the weather, the admission of horses, and the surgeons coming on board. How, then, can guilt be reasonably inferred, by her removing to the deck, where her conduct was not only open to the constant observation of all her attendants, but of all the sailors in the ship? The tent, as has been proved, being open from below, to which her whole suite might have had access.

But to all this, it has been said, that it had been distinctly admitted, that she was attended, even in the night, by a male attendant. Had he, indeed, been a stranger, I admit that the presumption would have been different; but has it not been shown to have been of constant occurrence abroad, even in travelling by land, when no difficulties of accommoda-

tion were wanting, that men were attended by women as their servants, and women in the same manner by men? I cannot, therefore, be of opinion, consistently with the rules and principles of law, as I have always understood them, that the unsuspicious and unsuspected evidence, as it applies to what passed in the polacre, ought to be accepted as any thing like sufficient to establish that scandalous, disgraceful, and licentious conduct, which is charged by the preamble of this bill. Yet my noble and learned friend seems principally to have rested his enlightened judgment upon this part of the case. [The lord chancellor here, as we underderstood, signified his dissent.] Lord Erskine was then proceeding to contrast Majoochi's evidence with his contradictions and his own admissions, particularly with the evidence of Dr. Holland, when his voice suddenly ceased.* The pause was not particularly noticed at first, as it appeared as if his lordship were looking over the Minutes placed on the table before him; but, after some time had elapsed without resuming his speech, some of the peers became alarmed, and rose from their seats to proceed to his lordship. The anxiety of the whole House was now aroused, as the noble lord fell forward on the table in a senseless state. There were cries of "Open the windows,"—"Some water." The lord chancellor and the earl of Liverpool evinced the greatest concern, and proceeded immediately to lord Erskine's assistance. They, with the assistance of earls Grey and Carnarvon, lord Holland, and Mr. Baron Garrow, raised his lordship; but his speech and colour were gone. They then became seriously alarmed, and proceeded to convey him out of the House. The attack was so severe, that they were instantly obliged literally to carry his lordship out of the House, and into an adjoining room, where medical aid was immediately procured. It was at first supposed, that his lordship's indisposition would be but temporary, and, in the expectation that he would be able to resume his speech, the House, on the motion of the earl of Lauderdale, adjourned for a quarter of an hour. After the lapse of nearly half an hour, lord Erskine's indisposition being so severe as to prevent his return, the House resumed.*

* Lord Erskine's complaint was found to have arisen from a sudden and violent cramp in the stomach, which was greatly distended, and his pulse for some time had entirely ceased, until he was relieved by something administered by sir William Knighton, who happened to be present, and who kindly accompanied him home, attended by Mr. Holt of Westminster.

The *Lord Chancellor* said, that he had, in common with their lordships, to regret the absence of his noble and learned friend, whose indisposition had compelled him to quit his seat. But he could not permit this debate to go further without observing, that his noble and learned friend had mistaken what he (the lord chancellor) meant, when he said that he had overlooked many of the points in the case. What he meant to say was merely this—that in the points and cases upon which he had remarked, he saw enough for his own judgment: as to the rest, he had left them unreasoned upon, and refrained from pronouncing any opinion with reference to them.

The Earl of *Lauderdale* said*—

My lords; in rising to address your lordships on this question, which has so much occupied and agitated the public mind, it is with truth I can assure you, that I am overawed and weighed down with the magnitude of the subject, to which I feel it my duty to call your attion; as well as with a sense of my own incapacity to present to your view a clear and distinct detail of this voluminous evidence, and to bring home to your minds the reasoning which must guide my own judgment, and which, in my humble opinion, ought to govern your lordships' decision, on this important question. Unfortunately, too, your lordships must all perceive, that the temporary illness under which I labour cannot fail to add greatly to the difficulty and embarrassment I must feel, in endeavouring to execute that task, which a sense of public duty imperiously imposes upon me.

Much, however, as I am oppressed with all these considerations, even these would be light in comparison of what I should feel, if I could believe that any one of your lordships could infer, from the circumstance of my rising immediately after my learned and noble friend (whose sud-

* From the original edition, printed for Constable, Edinburgh; and Maxwell, and Budd and Calkin, London.

den illness no man can regret more than I do), that I had vanity sufficient to think myself capable of competing with him in the discussion of a point of law. No, my lords, whilst I know my own capacity, I have not forgotten that my noble and learned friend has passed great part of his honourable and splendid career, at the head of a profession of which his brilliant eloquence made him in public estimation the brightest ornament. But, my lords, it is not a point of law we are now called upon to discuss; and in rising to address your lordships, I feel I am only going to deliver an opinion upon a subject, on which I am sure my noble friend would agree with me, when I state that our law and constitution supposes every juryman to be a competent judge, and, fortunately for the welfare of this country, imposes upon him the duty of deciding.

In endeavouring to execute this duty, much as I admire and respect the talents of my noble friend, there is one thing in which, on this occasion, I cannot be induced to follow his example;—I cannot be led, even by him, to mix up with this question, any discussion of the merits or demerits of the present government. I am sure your lordships will admit, that there is no man who has more frequently disagreed with, or been more ready to censure the noble lords opposite to me, than I have been; but I can in no respect regard this as a party question, and I can never approve of connecting it, in the smallest degree, with any discussion of the general politics of the day. If I differ from my noble friends around me, I can assure them, that it is to me a subject of great regret, because I respect their talents and their judgment to an extent, that, agreeing with them, I must always feel greater confidence in my own opinions. If I agree with my noble and learned friend on the woolsack, who addressed you so ably at the commancement of this discussion, and with the noble lords opposite to me, I desire distinctly to be understood, that it does not arise from any general approbation of their conduct as ministers of the Crown, but from a coincidence of opinion, after the most mature deliberation on the result of that evidence, on which we have been unfortunately here called upon, even in a compulsory manner, to decide.

I am sure it is unnecessary for me to occupy your lordships' time, in endeavouring to enforce the opinion, that this ought in no degree to be regarded as a party question, for I am confident, one and all my noble friends must agree with me on this subject; and in justice to the noble lord at the head of his majesty's government, I must say, that I think it impossible that any man could have taken greater pains throughout these proceedings to instil into the minds of his adherents, that this was a subject on which it was the bounden duty of every man to regulate his conduct, exclusively as his own judgment directed.

That this is the principle on which our conduct ought to be regulated, is a position on which I do sincerely believe there is no difference of opinion within these walls; and on this principle I assure your lordships, I do so exclusively act, that I now present myself to you, solely for the purpose of stating the grounds on which my decision has been formed, and not with a view to guide or influence, by argument, the mind of any one who may honour me with his attention, farther than, as the views I may suggest may tend to illustrate the fair inferences, which, as a judge, it is the duty of every one of you to draw from the evidence that is now submitted to your consideration.

In executing this duty there is one consideration, from which, I am sure, all of your lordships, in common with myself, must derive the greatest consolation, amidst the overwhelming difficulties that present themselves, to all who contemplate the complicated mass of evidence which has been brought under our view; it has, indeed, afforded to me, and I doubt not to all who hear me, the greatest consolation, to reflect, that there is no difference of opinion about the nature and description of evidence, from which, in cases of this nature, the guilt or innocence of the party accused is to be inferred, nor about the rule of law, which, tracing out the line the mind is to pursue, guides and directs the inferences on which the judgment we are to pronounce ought to be founded.

For I am sure your lordships must recollect the clear and luminous exposition of the law, given in the case of Loveden *v.* Loveden, by the learned and excellent judge who presides in the Ecclesiastical court (sir W. Scott), which was read to you by the counsel at the bar, and it cannot have escaped you, that the doctrines therein contained have been on all sides admitted as indisputably established. On

that occasion, that learned judge laid down, that, "in cases of adultery, the fundamental rule is, that there is no necessity to prove a direct act; that such an act could not be proved in one case in a hundred; that it must therefore be deduced from inferences leading to a just conclusion; that if this were not sufficient, there would be no protection for marital rights; it is not necessary" (he continues) "to enumerate the various grounds of inference; many are mentioned in the ancient writers; but besides these, there are many others depending on general manners, and other incidental circumstances which are continually changing. They must be such as to lead a reasonable and just man to the conclution of guilt. It must not be a rash conclusion, or formed on strained and artificial reasoning; it must be in conformity with what would strike a man of plain honest sense. It is not a matter of technical rule; upon such subjects, the rasional and legal conclusion is the same.

Guided by these principles, it will be my endeavour to lay before your lordships, in detail, what I must conceive to be the leading and important facts of this case, and, without any exercise of ingenuity or refinement, plainly to state what appears to me to be the irresistible inferences to which they must naturally conduct your minds.

My lords; though there are none of your lordships who can have a greater admiration of the candid, clear, and impartial reasoning which my noble and learned friend on the woolsack has addressed to you on this occasion, in a manner so highly befitting a person possessing the authority which a long life, spent in displaying his profound knowledge and great talents has acquired for him, yet I must think, that what is becoming in him, would in no respect befit me, for your lordships must be well aware that I can pretend to no authority; it appears, therefore, to me necessary, that I should enter more at large into the evidence, and into the details of the case, before I can expect that any reasoning of mine can give such weight to the opinions I am about to state, as may, in your lordships' minds, justify the judgment which a sense of duty will force me to pronounce. I can assure your lordships, however, that both my inclination and the state of my health will secure me against intruding upon your attention longer than I conceive to be absolutely necessary, distinctly to explain the view of the case, which forces upon my mind the conclusions I have been compelled to adopt; with this view, I will avoid, as much as possible, reading to you the evidence in detail, which never fails to occasion interruptions, still more disagreeable to those who listen, than even to the speaker himself. It will be my object, however, accurately to detail the facts as they are in the evidence before you, and cautiously to avoid putting any refined construction upon the circumstances to which I shall have occasion to refer. Let me also, for the purpose of securing myself against the possibility of any accusation of mis-statement, entreat of my noble friends behind me, and of every peer in this House, that I may be interrupted, should any one entertain the least suspicion of misrepresentation or mistake; it will be a favour done to me, whilst it will neither discompose me, nor create the necessity of my occupying much more of your time, for I have before me indexes, by means of which I can at once refer to every passage of the evidence, and satisfy the mind of every one of your lordships of the accuracy of the facts that I may feel it necessary to state.

But before I proceed to call your attention to the evidence itself, allow me distinctly to state to your lordships the order and arrangement which, on this occasion, it is my intention to pursue. In the first place, I mean to lay aside the whole mass of evidence brought before you by the prosecutor; to confine myself exclusively to the evidence tendered to you by her majesty's counsel in the course of the defence; and to show you, that if I was forced to decide this important cause on this evidence alone, what, according to the rules which have heretofore guided the courts of law, as well as this House, must of necessity be my judgment. I shall then endeavour to point out to you the additional certainty of the accuracy of my conclusions, which, for the consolation of my mind, I derive from the evidence of the prosecutor, after setting aside and rejecting all which can reasonably be suspected. And, lastly, I shall state to your lordships my reasons for thinking, that, being convinced of her majesty's guilt, every sound view of expediency compels me to vote for the second reading of the bill now before you.

In pursuing this line, I am naturally led, in the first place, to call your lord-

ships' attention to the information, such as it is, which the evidence for the defence affords us concerning the history of Bergami, the hero of this tale, who was taken into the service of her royal highness the princess of Wales, as courier, in November 1814, at Milan, and who is now baron of Franchina, knight of Malta, knight of the Holy Sepulchre, and grand master of the order of St. Caroline of Jerusalem.

From colonel Teuillé, we learn, that, in 1800 and 1801, Bergami was serving as a non-commissioned officer in the 1st regiment of Italian hussars, and that, in 1808 and 1809, he saw him in Spain acting as private courier to general Pino, whose confidence the colonel states him to have enjoyed,* and this is all that we can collect concerning this man from the evidence given in defence, till we come to his being at Milan, recommended by the marquis Ghisiliari as courier to her royal highness. From sir William Gell, your lordships have received an impression, that the marquis considered him as a person rather above his situation, and that he expressed a desire, that if he behaved well, he would be gradually advanced.† Both Mr. Craven, however, and Sicard, by whom he was hired, defined more accurately the advancement to which the marquis looked; for the former states to you, that, having recommended him as a courier on the journey to Naples, he only expressed a desire, that Bergami should remain as a servant out of livery, when her royal highness took up her residence at any particular place;‡ and Sicard declares, that he was accordingly hired to act as courier to Naples, receiving at the rate of 40 louis a year, and that when he arrived there, he was taken permanently into the service at the rate of 50. By Sicard we are farther informed, that there was nothing in the manners of this man superior to that of other couriers,§ which is confirmed by lord Guilford's observation, made at the time he was elevated to a place at her royal highness's table; for he distinctly declared to you, that he saw nothing in his manners but what he would have expected from a man in the situation of a courier.‖

Before entering into what passed on their arrival at Naples, it is of importance I should recall to your lordships' recollection Mr. Craven's declaration, that, previous to her royal highness's arrival in Italy, he had advised her no longer to allow the boy, William Austin, to sleep in her bed-room, which was the usual place of his repose; stating to her, that the people of Italy might make observations, and that Austin had attained an age which might give rise to their criticisms.* Sicard, however, whose duty it was to distribute and arrange the apartments, distinctly states, that no separate room ever had been provided for this boy till after her royal highness's arrival at Naples, when, by her order, an apartment was allotted to him;† and though I am perfectly aware that Carrington contradicts Sicard on this subject,‡ I shall afterwards explain to you why it is impossible for me to place any reliance on this man's testimony, whilst I am sure your lordships must, in the mean time, agree with me, that, whether you reflect on the respectable manner in which Sicard gave his testimony, or on the superior opportunities he who distributed the apartments had of knowing where the various persons of the family slept, it is impossible to doubt the accuracy of his information.

According to him, then, your lordships must recollect, that, immediately after their arrival at Naples, Austin was, for the first time, dislodged from her royal highness's apartment, and that Bergami, the courier, who had slept the night after their arrival at the top of the house, in the vicinity of one of the servants of the name of Charles Hartrop,§ was removed into an apartment which communicated through a little cabinet and a corridor with that of her royal highness. This arrangement Sicard, indeed, tells you he made himself, but that it was in consequence of a communication with Hieronimus, concerning the nature of which your lordships are left in the dark, as Hieronimus, though in England, and in her majesty's service, was not called to your bar; and the only account given to you of this arrangement, which placed this courier, then hardly three weeks in her service, in an apartment so imme-

* See pp. 432 and 433 of the present Volume.
† Ibid. p. 344. ‡ Ibid. p. 331.
§ Ibid. p. 411.
‖ Ibid. p. 312.

* See p. 334 of the present Volume.
† Ibid. p. 364. ‡ Ibid. p. 413.
§ Ibid. p. 405.

diately connected with that of her royal highness, that by shutting one door, all the family were excluded from having access to the passage which led from the one room to the other, is, that it was necessary she should be guarded, there being a glass door out of her apartment into the garden.

I am sure, however, one and all of your lordships must have desired to know what it was Hieronimus stated to Sicard, which produced this arrangement; for, if apprehension for the safety of her royal highness's person was the sole reason for it, it must be acknowledged, that this Italian courier, unknown to every one in the family, till he had been recommended three weeks before, by a person who seemed to have an object in providing for him, was a most extraordinary selection; the princess had, in her family, servants, of whose fidelity she had experience, who had been known to her for a length of time; Hieronimus must have had opportunities sufficient, from the time he had been in her service, of establishing his character in her estimation; and Sicard himself had resided with her for years, during which time, his conduct had secured to him advancement in her service. If, then, there existed apprehension of danger for her majesty's person, who is it that has a mind so constructed, as not to think one or other of them, if not sir William Gell or Mr. Craven, was the person who would naturally have been chosen for her protector, rather than a courier, of whom neither she nor any of the family knew any thing, but for the short space of three weeks?

This, however, was only the first step towards marks of unprecedented favour and distinction shown to this man, whose figure and appearance of strength created such an impression in the mind of lord Llandaff, that he stated it to your lordships, as the reason why he was the only person in her royal highness's service whose name he recollected;* for soon afterwards, we find that a servant was allotted to him, who, during a temporary accident slept in the adjacent apartment, that he might be more immediately under his command;† that he exclusively attended on her royal highness in her bedroom when lady Charlotte Lindsay dined with her there, others being only employed in bringing up the dishes;* and that, when lady Charlotte and her royal highness walked in the garden called La Favorita, he was in attendance.† Mr. Craven, too, has proved to your lordships that he saw her royal highness walking on the terrace, in the vicinity of her own apartment, followed by the courier Bergami, and that, having received a letter from England, informing him, that there was a spy at Naples, he thought it, on this occasion, necessary to caution her royal highness against outward appearances, which might be misconstrued.‡

To caution her royal highness against outward appearances, which might be misconstrued!!!

I protest I have hardly yet recovered from the surprise to which this statement gave rise; for, if nothing was known to Mr. Craven, previous to that period, more pregnant with suspicion, than what has been detailed to your lordships by Mr. Sicard, by sir William Gell, by lady Charlotte Lindsay, and by Mr. Craven himself, is it possible to understand how a chamberlain of the princess of Wales, from the mere circumstance of a servant following her on the terrace, should have presumed to caution her royal highness with regard to outward appearances? Can your lordships believe, that, after such an insult to a person in her royal highness's situation, conscious of the purity of her conduct, this chamberlain would have been allowed to remain one hour longer in her service?

Why, my lords, so far from the circumstance of her royal highness having a servant behind her, when walking on the terrace, being calculated to create suspicion, if nothing of the sort previously existed, it was what any man would have advised as the surest mode of preventing it; for though I may perhaps recollect cases, in which I have heard ladies remarked upon for walking out without their servant behind them, it is the first time in my life, and I must believe it is the first time that ever any one of your lordships heard it suggested, that walking out with her servant behind her was a ground which could make any man think it necessary to caution a lady against outward appearances.

To her royal highness, however, this

* See p. 329 of the present Volume.
† Ibid. p. 408.

* See p. 317 of the present Volume.
† Ibid. p. 318.
‡ Ibid. p. 336.

appears not to have given the smallest offence; for Mr. Craven states, that she calmly informed him that there were other persons in the garden, and she had taken Bergami with her to interpret to the workmen; and here your lordships must allow me to remark, that Mr. Craven saw this scene, which seems to have produced so formidable an effect upon his mind, from the terrace on the opposite side of the house, near lady Elizabeth Forbes's apartment, which, being higher than the terrace on which her royal highness walked, commanded a view of it, yet lady Elizabeth Forbes, though summoned on the part of her majesty, to attend your lordships as a witness, has not been called to your bar, notwithstanding that she had resided with her royal highness from the time of her going abroad, till her quitting Naples; and that, from the position of her apartments, she had an opportunity of seeing what passed on the terrace; whilst lady Charlotte Lindsay has been brought to your lordships bar, as the great female authority in relation to her royal highness's conduct, though she resided only ten or twelve days at Naples with her royal highness, two days at Rome, six at Civita Vecchia, and three in the Clorinde, making in all, including the time passed on the journey, a space of not more than twenty-four days.*

Confining myself strictly to the evidence for the defence, I have, before quitting Naples, only to remark, that, previous to her royal highness's departure from that place, her old and faithful servant Sicard was sent to Genoa, for the purpose, as he says, of proceeding to England, there to make arrangements about her royal highness's bills, under a conviction that her royal highness was to direct his return; that lady Elizabeth Forbes left her at Naples; and that lady Charlotte Lindsay tells you, that sir William Gell, Mr. Keppel Craven, and captain Hesse, also quitted her royal highness there, so that, with the exception of Dr. Holland, all the English in her suite, at the time of her arrival at Naples, now ceased to belong to her service. From Naples, it is in evidence, that Bergami, though, during her royal highness's residence there, he had been raised, first to the situation of valet-de-chambre, and next to that of a page, rode, on a journey to Rome and to Civita Vecchia, as courier; I do not, my lords, stop to remark upon the story lady Charlotte Lindsay has communicated relative to wine being given him from the carriage on the road. It figures, in my mind, as of trivial importance; but your lordships will recollect, that during the few days lady Charlotte Lindsay lived with her royal highness at Civita Vecchia, Bergami continued to be the only servant in attendance when her royal highness walked out, and that her ladyship cannot positively swear that her royal highness did not take his arm in the course of some of these walks. From Civita Vecchia, her royal highness, attended by lord Guilford and lady Charlotte Lindsay, proceeded, in the Clorinde frigate, to Leghorn. Allow me by the way to remark, what I will afterwards show your lordships the import of, that, whilst lady Charlotte Lindsay was on board, nobody slept in that division of the cabin allotted to her royal highness but her maid.

At Leghorn, lord Guilford and lady Charlotte Lindsay disembarked; on landing at Genoa, therefore, Dr. Holland was the only Englishman in her royal highness's suite. Here, however, she was joined by lord and lady Glenbervie, and this lady, who had formerly been attached to her family, seems for a few days to have officiated as lady in waiting.* On lord Glenbervie's authority, we know, that at this place Bergami still acted as a servant, waiting at table in a fancy dress, and that soon after her arrival, her royal highness was joined by lady Charlotte Campbell, then the only lady of the bedchamber in attendance. Mr. Hownam, too, who, in the sequel, will figure in these details, arrived from England in the month of April, previous to which time Louis Bergami, Bartolomeo's brother, had been engaged in her royal highness's service, and it appears, that soon after Mr. Hownam's arrival, Faustina, the courier's sister, Victorine, his little child, and his mother, came to reside with her royal highness.

On the subject of how they came, and in what capacity, your lordships, however, have no information. Even after their arrival, their situation seems to have been involved in some degree of mystery; for Dr. Holland states, that he never was aware that any person of the name of Faustina resided in her royal highness's house at Genoa;—that there was a little child,

* See p. 322 of the present Volume.

* See p. 314 of the present Volume.

whose name he did not know, and that he saw an elderly person, whom he believed to be the mother of Bergami,*—and Hownam tells you, that he never saw them but once or twice by hazard, in the garden of the house which her royal highness inhabited.†

But I am sure, your lordships must, with me, be convinced, that them other of this courier, that his brother, his sister, and his child, could not have come into the house without his knowledge, as well as that of her royal highness. Here, then, we find that Bergami, retained at Milan in the month of November 1814, solely for the purpose of going to Naples as courier, for whom an apartment situated in close connexion with that of her royal highness was allotted at Naples; who had been raised to the situation of valet-de chambre, and subsequently to that of page; and who, in her walks, as well as at her private dinners, seems to have become her exclusive attendant, must have had secret conferences with her royal highness; for it is impossible that without communication, his mother, his brother, his sister, and his daughter, could have been established in her royal highness's house at Genoa.

Secrets, my lords, between two persons of different sexes, though of equal rank in society, are of the most dangerous nature. Their existence involves the certainty of a common interest between the parties, unknown to the rest of the world, inevitably leading to familiarity, too often fatal to the female character. And I am sure your lordships will think that a secret between her royal highness the princess of Wales, and a courier whom she had only taken into her service four months before, who, as has been shown from the evidence, had been making rapid strides in the acquisition of her confidence and favour, concerning the advancement of his interests and that of his family, is a circumstance of a most suspicious nature; more particularly when conjoined with what took place soon after their arrival at Milan, when lady C. Campbell, following the example of all her other English attendants, quitted her service.

On this occasion we learn, that her royal highness took as her lady of honour, and only female companion, a countess Oldi, who, in reality, turned out to be the sister of Bergami,—that, from her first entry into the service, she sat at her royal highness's table, though her brother had not yet attained that honour; and that it appears in evidence, that the connexion betwixt Bergami and this countess Oldi was, at the time of her appointment, neither announced to, or known by any member of her royal highness's family; for Dr. Holland states his ignorance of the fact, even when he quitted her royal highness's service at Venice.* And Hownam says, that he knew nothing of it when she came into the service,—that he heard it rumoured shortly afterwards,—but that he was not certain for some time.† Nay, lord Guildford declares, that, though he thinks he heard she was Bergami's sister before he went to Como, in the month of November 1815, he did not till afterwards know it with certainty.‡

To your lordships, however, it must appear impossible that Bergami could have been ignorant that this countess of Oldi was his own sister; neither is it in the nature of things that you can believe that she could attain that preferment without her royal highness having had communication with him. Here, then, there must have been a secret betwixt her royal highness and this man, who had not yet been six months in her service,—who had entered it as a courier,—whose career, from the first moment of his arrival at Naples, was attended with unaccountable marks of confidence and of favour,—and whose attendance, as a servant, even in waiting at table, had been dispensed with after her royal highness quitted Genoa,—and that, too, a secret of a most suspicious and dangerous nature; for it must be obvious to your lordships, that the countess Oldi's being established as her royal highness's confidential companion, was the device, of all others, best calculated to lull suspicion in the minds of those in attendance on her royal highness who were ignorant of that lady's family and connexions,—whilst, of all others, it was the arrangement best calculated to facilitate opportunities of confidential intercourse betwixt her royal highness and her courier. In the minds of her attendants it must have inevitably allayed all doubt; however frequently Bergami may have enter-

* See p. 420 of the present Volume.
† Ibid. p. 513.

* See p. 420 of the present Volume.
† Ibid p. 531. ‡ Ibid p. 310.

ed into her royal highness's apartment, to them it must have appeared that nothing unbecoming could possibly take place; for they must have regarded the presence of an Italian countess, whom they naturally conceived to be a lady of high rank and character, to be a security against every thing of the kind. If the apartments of the princess and of Bergami were divided by that in which the countess Oldi slept, this very circumstance must have stifled all idea that any nocturnal impropriety could exist; whilst, on the other hand, there is no end to the opportunities that might be afforded by the accommodating aid of this sister, whose interests, as well as that of her brothers, sisters, mother, and cousins, all depended on her compliance; for your lordships must recollect, that Mr. Hownam gives a list of no less than ten of the family who were, in one shape or another, attached to her royal highness's service.*

My lords; I dwell on this circumstance the more, because I know I address those who feel that favours bestowed from gratitude for services performed, or from a sense of eminent and distinguished merit, are what, in compliment to the object of them, the mind would delight in avowing; and that concealment only bespeaks a secret sense of some unworthy motive, which shrinks from disclosure, and which it is my business, as well as every one of your lordships, to decipher by reference to the concomitant facts given in evidence in the course of this extraordinary defence.

In pursuing this research I have next to observe, that, nearly about the time of this singular, if not convenient, arrangement taking place at Milan, her royal highness suggested to Dr. Holland, that he had an excellent opportunity of making a six weeks' tour into Switzerland, and that, out of that proposal, there subsequently arose a permission to Dr. Holland to return to England, from whence he was never afterwards recalled, though the attendance of a medical man seemed so necessary on her voyage to Greece that she took a doctor at Tunis; and though Dr. Holland, with the knowledge of that country which his admirable work exhibits, was the person, of all others, one would naturally have wished as an attendant on such an occasion.

From Milan the evidence shows her royal highness to have made a short excursion to Venice,* on which occasion the only Englishmen in attendance, besides Hownam, were Mr. William Burrell and Dr. Holland, who went there on his way to England through Germany. Here her royal highness landed at the same hotel where lord Llandaff lodged; but, from the time she was at Genoa, she seems to have acquired a taste for privacy; for Dr. Holland tells you, that, at that time, her royal highness went to look at a house in the country, with a view to retirement; and, in conformity with that inclination, we also find from him, that she quitted the hotel the day after her arrival, and lord Llandaff never dined with her at Venice.

On her royal highness's return from Venice she went almost immediately to reside at the Villa Villani, and here Mr. Burrell finally took his leave of her, when she was left, with the exception of Hownam, surrounded by nothing but her servants and the relations of her courier. It was there, we are informed by this lieutenant in the navy, that her royal highness spent her evenings, indulging in what he calls *les petits jeux*,† which he explains to be blind-man's buff, &c.; and in this amusement Bergami, his family, and the servants, daily participated.

Before Mr. Burrell's departure Bergami appears never to have dined with her royal highness, but soon afterwards she made an excursion to Mount St. Gothard, on which occasion Hownam informs you, that Bergami dined at table with her royal highness at Bellenzona, at Lugano, and also at the Devil's Bridge, in his courier's dress.‡ From the same authority we learn, that, soon after this journey, they went to the Villa d'Este, where Bergami began regularly to sit at her royal highness's table, which is, indeed, confirmed by lord Guilford, who, on his visit to the Villa d'Este, first saw her royal highness with Bergami alone in a canoe on the lake of Como, and afterwards dined with her there and at Milan, on both of which occasions this courier sat next to her royal highness at table.§

From Hownam we farther learn, that, about this time, her royal highness began to indulge in theatrical amusements. He, indeed, recollects only one exhibition of

* See p. 531 of the present Volume.

* See p. 421 of the present Volume.
† Ibid. p. 517. ‡ Ibid. p. 514.
§ Ibid. p. 310.

this nature, which he at first states to have taken place on St. Bartholomew's day, an opinion he most carefully recalls, when it is suggested to him by a question, that that was probably kept in honour of Bergami.* He perfectly well recollects that Louis Bergami played the part of Harlequin, but he does not recollect that her royal highness played Columbine, though he states her to have exhibited in a little farce, which he describes as being the history of a man who wanted to sell an automaton that could be wound up to do any thing; stating the humour of the piece to consist in the person who bought this figure finding out that it was a woman; and that her royal highness exhibited herself in this character before two hundred people collected from the vicinity. His memory is not distinct concerning the part which she performed with Bergami, but he recollects that he appeared in the character of a sort of fiddler.†

Let us here, my lords, pause for a moment, and reflect that this must have happened, according to Hownam's evidence, in the month of August or September 1815, within ten months of this man's entering at Milan into the service of her royal highness the princess of Wales, to go to Naples as courier, during which period, we have to account for the early favour which, the day after his arrival there, pointed him out as the proper guardian to occupy the apartment immediately in the vicinity of her bed-room—for his sudden elevation from being a temporary courier, to the situation of valet-de-chambre, and afterwards to that of page,—for his services being dispensed with, even in waiting at table after he quitted Genoa,—for her royal highness's increasing familiarity with him, from the hour he arrived at Naples, till the moment, in his courier's dress, he sat down at dinner with her at Bellenzona, marked by the secrecy of the arrangements which surrounded her with the different members of his family; by his child's being taught to lisp mamma, when it addressed her; and by his mother's passing by the familiar appellation of Nonna;‡ her royal highness's familiarity with him, and connexion with them, gradually increasing as her English attendants dropped off: till it appears, soon after Mr. Burrell's retreat, to have gone to the utmost possible extent; for we then find her daily engaged in amusing herself with blind-man's-buff with this menial servant's family,—sitting at table with him even whilst he still retained his courier's dress, —figuring as an automaton before a public audience of the surrounding peasantry, —whilst his brother performed the part of Harlequin, and himself a sort of fiddler; —and ultimately adopting him as her sole and constant companion, going arm in arm with him in her walks, sailing on the lake attended only by him in a canoe; and sitting, as lord Guilford informs you, side by side with him at dinner.

In this state of things her royal highness must have left the Villa d'Este on her intended excursion into Greece, early in the month of November 1815; for captain Briggs states, that she embarked at Genoa in the course of that month, and it does not appear to me inconsistent with the plan of confining myself to the evidence brought in defence, to rely on his testimony; for your lordships must well recollect, that her majesty's counsel, in his opening speech, loudly proclaimed that captain Pechell and captain Briggs were her majesty's witnesses.

Regarding him, therefore, in this point of view, I must call your lordships' attention to the fact, that this officer informs you, that he had prepared a cabin for countess Oldi and her royal highness's female servants, immediately adjoining her apartment, which was the arrangement in the Clorinde betwixt Civita Vecchia and Genoa, six months before, her maid being then, according to lady Charlotte Lindsay, the only person who slept in the same division of the ship. But this arrangement did not now appear satisfactory to her royal highness; she gave up to the countess Oldi a part of her own apartment, and placed Bergami in countess Oldi's room, next to that in which she herself slept; and as this apartment had only an entrance through another room, she ordered a door to be made into the dining-room, which brought the entrance to it immediately contiguous to that of her own apartment.

My lords; I do not state this circumstance with an intention of inferring that any act of criminality took place on board the Leviathan, but as justifying the conclusion, that there must have been some reason for her royal highness's uniformly wishing Bergami's apartment to be so closely connected with her own, other than that pretended doubt concerning her personal se-

* See p. 520 of the present Volume.
† Ibid. p. 529. ‡ Ibid. p. 517.

curity; for on board a British ship of war no such doubt could exist. With the exception of her own family, there was no foreigner there, and her royal highness knows too well the character of British seamen, to have any distrust of them.

From captain Briggs we learn, that Bergami dined daily with her, when on board the Leviathan; that he did not consider it uncommon to see Bergami and her royal highness walking arm in arm together; that in society the greatest familiarity prevailed betwixt this courier and her royal highness; and that when she was about to go into the Clorinde, he had conveyed a message from captain Pechell, stating that he wished to accommodate her royal highness at his table, provided she did not insist on bringing Bergami there; but captain Pechell (in my opinion, in a mannar highly becoming a British officer) desired him to submit to her royal highness, that, as a captain in his majesty's service, he could not sit down at table with a man, whom all his seamen had seen on board his ship as a servant a very short time before.*

Captain Briggs, too, avowed the same opinion, for your lordships will recollect, that he stated himself as having informed her royal highness, that if Bergami had been in the same situation on board the Leviathan, he could not have admitted him to his table; you must almost remember, that, in the course of this conversation, he remarked, that it would be easy to send Bergami's dinner into his own cabin, and that he left her royal highness with an impression that this arrangement would be adopted.†

In this speculation, however, captain Briggs appears to have been mistaken, for it turned out that the courier's presence could not be dispensed with; that her royal highness could not be induced, even for a few days, to dine without the society of this man, who had, six months before, waited on her and captain Pechell at dinner; for she declined seeing captain Pechell, sending Mr. Hownam to inform him, that she could not accede to his request, and would, therefore, provide for her own table.‡

On board the Clorinde, however, captain Pechell tells you, that her royal highness did not remain for more than four days, and she appears ultimately to have quitted Sicily in a polacre she had hired, in contemplation of her journey to Jerusalem.

It is not my intention, at present, to say any thing to your lordships concerning what happened at Catania, for the evidence which disclosed what took place there, as well as at Aum, is not to be collected from the testimony of any witness called on the part of her royal highness. Consistently, therefore, with the plan I am pursuing, I must proceed to call your lordships' attention to the circumstances detailed to you by the evidence to have happened on board the polacre.

Allow me, however, before quitting Sicily, to observe, that her royal highness does not seem to have been of sir William Gell's opinion, that Bergami's manners sufficiently denoted him to be a gentleman; and by the way, I must say, that the reasons on which he founded this opinion were not very convincing; for your lordships will recollect, that he states it as arising from Bergami's disinclination to sit down in his presence, and the desire he showed of carrying the candles before him, circumstances from which I should have drawn a very opposite conclusion; for, I confess, I should have regarded this conduct as smelling of the shop, thinking it as clearly denoted the menial servant, as Mr. Lenitive's phraseology betrayed the apothecary, when in making love, in the character of a fine gentleman, he declared to his mistress, that he felt such a fever of love, "he verily believed it could not be dispelled, even by sixteen grains of James's powder."

Be this as it may, it is, however, clear, her royal highness thought that something more than his manners was necessary to obliterate the impression of his former situation; accordingly, before leaving Sicily, the order of Malta, which is there sold by a person who falsely pretends to have the right of conferring it, was obtained for him, and he was created a baron, by the title of Baron de la Franchina; and whilst on the subject of his decorations, to prevent future interruption, let me also add, that, at Jerusalem, he was made a knight of the order of St. Sepulchre, and in the polacre, on their return home, grand master of the order of St. Caroline.

It was at Augusta that her royal highness went on board the polacre; and here, my lords, I must confess to you, I cannot subscribe to the sentiment pronounced

* See Vol. 2, p. 952.
† Ibid. p. 957.
‡ Ibid. p. 950.

by the learned counsel who so ably summed up the defence. I cannot think with him, after all that had taken place from her first acquaintance with Bergami, that her royal highness can be said to have entered that polacre in a state of purity that could not be suspected: No, my lords, I must, on the contrary, feel that her royal highness went on board that ship, under circumstances pregnant with suspicion to an unexampled degree.

Do, my lords, for one moment reflect on the history of the preceding fourteen months. You have seen her royal highness arrive at Milan with an establishment of English attendants, of a rank and character suited to the situations they held; —you have seen her there retain in her service a courier for forty Louis a year; —and the witnesses in her royal highness's defence have established, that this man, whose appearance lord Llandaff described as sufficiently impressive, made a progress unparalleled in rapidity, in her royal highness's favour and confidence, till he was not only introduced to her table, but became her sole companion and confident, necessary to her to a degree, that she kept her own table on board the Clorinde, rather than renounce, for a few days, the pleasure she derived from his society. They, too, have proved, that, whilst her English attendants gradually dropped off, her royal highness was induced to surround herself, under circumstances of concealment, in themselves most suspicious, with the relatives of this menial servant, so that, with the exception of two lieutenants of the navy, she literally had no other society, when she embarked, but the relations of this courier.

But this is not all. It cannot escape your lordships' memory, that the witnesses for the defence have established, that her royal highness had not passed these fourteen months before she embarked in the polacre, without her attention being called in the most marked manner to the inferences that must be drawn from the conduct she was pursuing. You cannot have forgot the admonition Mr. Craven at Naples gave her for walking in the garden, as he says, with this man behind her, who was now daily sitting by her side at table; —the prayers and entreaties with which Mr. Hownam stated to captain Briggs, that, with tears in his eyes, he had implored her not to admit the courier to her table;* which, whether true or false, I will subsequently show you, ought to have nearly the same effect upon your minds;—and I am sure you will agree with me in thinking, that the declaration of captain Briggs, and the conduct of captain Pechell, in refusing to sit down at table with Bergami, formed in themselves remonstrances such as must have called to her royal highness's mind, in the strongest and most emphatic manner, the danger of the path she was pursuing. Besides, her royal highness could not have forgot that she had, in this country, by the advice of my noble friends behind me, been admonished by his late majesty, with respect to her past, as well as with regard to her future, conduct;— and Mr. Craven's admonition to remove Austin, a boy of thirteen, from her bedroom, whom she had educated from a child, must have put her on her guard concerning the conclusions that would be drawn from Bergami's sleeping apartment being regularly in the vicinity of hers, and from at last sleeping under the same tent with him for five weeks together, to a degree, that nothing but the most impassioned infatuation can account for the scene to which I am about to call your attention.

From the plan given in evidence at your lordships' bar, of the interior of the polacre, your lordships must be perfectly familiar with the arrangement of the apartments, as settled by her royal highness previous to her departure from Augusta. You know the relative situation of Bergami's apartment, and that of her royal highness. You are aware that Hownam's account accurately agrees with the plan which was given in to the House by the mate of the polacre; and that he tells you, that, after their departure from Tunis, Bergami's bed was removed to the dining-cabin, immediately contiguous to the door of her royal highness's apartment, not to make way for the doctor who was taken on board at Tunis, as my noble and learned friend, whose absence we so much regret, stated to you (for Mr. Hownam expressly says, that this physician did not occupy Bergami's apartment),* but in compliance with that desire of approximation on the part of her royal highness and Bergami, which manifests itself throughout the whole of the evidence.

It is not, however, my intention to dwell on what took place on board this

* See p. 1022 of the present Volume.

* See p. 533 of the present Volume.

polacre, previous to her royal highness's departure from Jaffa after her return from Jerusalem; on the contrary, I mean now to call your lordships' attention exclusively to the scene exhibited during the five weeks her royal highness passed on the voyage betwixt Jaffa and Capo d'Anza; and here, my lords, adhering to the plan I have chalked out, I must confine myself to the evidence of lieutenants Flinn and Hownam, for they are the only witnesses called on the part of her majesty who speak to what passed on that occasion. It is impossible, however, after what you have heard in the course of this proceeding, to argue upon their evidence without making a few remarks on the credit due to them.

It would, indeed, be easy for me to state to your lordships how much, in many trivial things, these two gentlemen have contradicted each other; but that constitutes but a trifling objection to their credibility, in comparison of what arises out of the testimony given by both the one and the other, in the course of their cross-examination. My lords, it must be in your lordships' recollection how her majesty's solicitor-general, with that display of eloquence which he possesses in such an eminent degree, described to your lordships the talent of eliciting the truth out of an unwilling witness as one of the most splendid and beneficial exertions of an advocate's powers, whilst he seemed rather to deprecate and treat with contempt the faculty of exposing the falsehood of a witness by detecting him in notorious contradictions. My lords, I cannot go along with that learned gentleman in his reasoning on this subject, or accede to his conclusions; for to me both exertions appear equally laudable, as being equally necessary to elicit the truth;—to the one or to the other it is the duty of a counsel to resort, as the particular case points out which is the appropriate means. And there certainly never were two witnesses that afforded greater opportunities of exhibiting both of these talents; for it would be difficult to say whether the one line of conduct was more distinctly called for by the rash and impetuous disregard for truth which Flinn exhibited, or the other by the studied reserve, artful concealment, and prevarication, which distinguished the character of Hownam's evidence.

Of the talent which his majesty's solicitor-general displayed in the cross-examination of Flinn, I need not remind your lordships; that is best established by the complete success of the exertion; for I really believe he left every man in this House convinced, that credit was not due to one word of that gentleman's evidence, after what passed at your lordships' bar.

But, my lords, to Mr. Hownam, as a witness for the defence, there appears to me to be as little credit due; he may, indeed, have been prompted by feelings of gratitude, which every man must respect, whilst they must lament the situation into which they have brought him; for whilst his desire of concealment, his alacrity at evasion, and the difficulty of extorting any thing like the truth from him, throws, in an eminent degree, doubt upon every thing he said in favour of the party who brought him to your lordships' bar; it gives additional weight to the facts which have been squeezed out of him, obviously against his inclination.

My lords; that I am giving no exaggerated description of this gentleman's evidence, I could illustrate by reference to many passages, if it were not for the dread of occupying too much of your lordships' time. Let me, however, refer you to his first statement, that the theatrical amusements were given at the Villa d'Este, on St. Bartholomew's day, and to the mode in which he afterwards disclaims the fact, as a specimen of what sort of witness he was;* but I need not occupy your time by selecting instances from other parts of his evidence; his statement on the subject now more particularly under consideration, of what passed in the polacre betwixt Jaffa and Capo d'Anza, must sufficiently establish the justice of my observations on his evidence.

Your lordships must recollect, whilst he admitted that her royal highness had slept under the tent on deck during the five weeks they were at sea on this voyage, the difficulty there was of extracting from him a fair admission that Bergami had slept there also; the manner in which he told you he did not know it,—the manner in which he was brought to say he did believe it;† and you cannot have forgot,

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* See page 519 of the present Volume.

† Ibid. p. 523.—In the course of the debate, Hownam's unwillingness to state his belief, that Bergami slept under the tent, was, to a certain extent, denied; reference is, however, here given to the

that, notwithstanding all this, when he is at last brought fully to acknowledge that he does believe it, the reasons he assigns for his belief conclusively show, that from the first he never could have doubted it.

The first reason he assigns is, that Bergami told him, after the squall, that the sea had broken into the tent, from which he concluded, very naturally, that Bergami had been there at the time.* Now I only refer to this, to show his backwardness and bad faith, in, for a moment, hesitating about declaring his belief; for I am perfectly aware, that what Bergami said to Hownam, can be no evidence against her royal highness.

This is, however, not the case with regard to the second reason he details to you; for whilst it forms a ground on which, from the beginning, he might have asserted, not only his belief, but his knowledge of the fact, it furnishes also grounds upon which your lordships must judicially believe, that her royal highness passed the night under the tent with Bergami; for he tells you, that on the occasion of the squall, he saw Bergami handing her royal highness down the little ladder, or stair, and that, by that means, she came from under the tent into the cabin in the middle of the night with Bergami, to whom he and Flinn say they could not assign any place of repose, if he did not sleep under the tent, though he knew where he slept previous to their arrival at Jaffa, and where every other person slept during the whole of the voyage.

It is true, that he says that Flinn accompanied them; but, my lords, I confess I am a little puzzled to form a belief whether this is true or false; for whilst Mr. Hownam distinctly tells you so,* Mr. Flinn as distinctly states that he never quitted the deck, being engaged in giving orders respecting the management of the vessel.†

Betwixt the comparative veracity of these two gentlemen, thus pitted in opposition to each other, it is indeed a difficult task to decide; I confess, however, I am rather inclined to give credit to Flinn; first, because it is more probable that a man should be accurate in recollecting his own conduct, than that his neighbour should retain an accurate impression of it. Secondly, because it is much more probable that Flinn, who is stated to have had the charge of the vessel, should, in this moment of danger, be occupied above, than in attending on her royal highness, who, according to Hownam himself, was handed down by Bergami. And, lastly, because there is a little appearance in the way he gives his evidence, that Hownam fancied, that throwing in a third person, as coming down along with him, might, in a degree, destroy the force of the fact, that Bergami came from under the tent alone with her royal highness, though I am sure that, in your lordships minds, it could make no difference; for it is in evidence, that Flinn slept in a hammock slung on the outside of the tent, and if he had descended the ladder with them, it could have only proved that he had joined her royal highness and Bergami in the tent, previous to their going down.

Mr. Hownam, however, had no sooner admitted his belief that Bergami had slept under the tent as well as her royal highness, than he immediately betakes himself to a statement of the necessity of somebody sleeping near her royal highness on deck; and in this statement he for a length of time persevered. The rolling of the ship, the crew, who were people of different countries, successively formed the grounds of this necessity; and your lordships must recollect, that when he was asked whether some other person might not have been occasionally employed to protect her royal highness, he then stated, that there were only himself and Flinn capable of it; for that count Schiavini, a man who had never been at sea be-

passages founded upon; besides, the argument used to show that he was not unwilling to state his belief as to this fact, in my mind, was the strongest thing of all others to prove that he was most unwilling. It was said, that even the counsel, in his examination in chief, had shown their desire, without effect, to induce him to announce his belief on this subject; now, undoubtedly, that may be urged, with justice, as proving that the counsel for her majesty were not unwilling to hear him state his belief. Yet, in so much as it proves his resistance, even to the wishes of those who called him, it seems, of all others, the statement that tends, in the strongest manner, to establish the unwillingness of the witness to disclose his belief.

* See p. 534 of the present Volume.

* See p. 522 of the present Volume.

† Ibid. p. 456.

fore, was totally incompetent; forgetting that this was actually the case with Bergami, for whose being under the tent with her royal highness, he was endeavouring to frame an apology.

At last, however, he confesses, that there was no suspicion entertained of the crew, nor any part of it, and that he knew of no immediate or personal danger. To display the real character of this man's evidence, your lordships really must submit to my reading that part of his examination in which he ultimately discloses to the House, that he himself never saw any necessity for any person sleeping under the tent with her royal highness; and that he only did not think otherwise, because, from its taking place, he supposed her royal highness thought so:

"You have before said, that you never represented to her royal highness the princess of Wales, that it was necessary for a male domestic to sleep near her upon the deck; you consequently could not be the recommender of the measure. When you considered it necessary for a male domestic to sleep near the princess of Wales in the tent, did you consider that it was necessary for a male domestic to sleep within the tent?" "I never represented the one nor the other."—"You have said, that you thought it necessary for a male domestic to sleep near her royal highness; did you think it necessary that a male domestic should sleep within the tent?" "I never thought of the thing at at all; and probably, had there been nobody under the tent, I should have taken as little notice of it, as I did when there was somebody under the tent; when I heard it, I supposed it was necessary; I thought it was necessary within myself." —"Was it for the princess's safety, you thought it necessary a male domestic should sleep near her?" "Her royal highness thought so, and I did not think otherwise."

Thus beat out of the ground of the necessity of Bergami's sleeping under the tent, which, indeed, was from the first untenable, because, even if there had been danger, and the crew suspected, instead of there being no danger, and the crew unsuspected, yet that could not have accounted for Bergami's being uniformly the person, or for there not being a female attendant as well as him under the tent. Hownam next resorts to the ground of there being no mystery; and your lordships must recollect, with what eagerness the counsel at the bar at once exclaimed, "That's our case;" that it necessarily became their case is most true, but that it should be proclaimed to be such, can only be considered as an act proceeding from despair.—What?—No mystery, my lords!!! why, if there was indeed no mystery, and this could be clearly established to your lordships satisfaction, there never appeared before a court of justice two more perjured wretches than Flinn and Hownam. What? —No mystery about Bergami's sleeping under the tent, and yet Mr. Flinn, who slept for nearly five weeks in a hammock slung within less than five feet of it, does not know the fact, and even swears that he does not believe it? [Here some one from behind stated, that Flinn had not said there was no mystery.]

My lords; I am obliged to the noble lord for the interruption; I certainly did not mean to state that Flinn had so sworn; it is not my opinion I did state him to have done so, but surely the evidence of a witness may be arraigned by showing your lordships, as in this case, that a fact is sworn by another witness, which, if true must falsify the whole tenor of his evidence;—and my argument was, that if it was true, which Mr. Hownam had sworn, that there was no mystery, your lordships, who have in your recollection that Flinn, from the beginning to the end of his testimony, was occupied in denying either his knowledge or belief of the fact, must, on that account alone, refuse all credit to his evidence.

On the other hand, if there was really no mystery, it is equally fatal to the credit of Mr. Hownam; for I need not remind your lordships, that his evidence throughout, not only discloses that he conceived there was mystery, but that he himself, even before your lordships at the bar of this House, was to the last doing every thing in his power to involve it in mystery.

Let us then, my lords, see how this case stands, confining ourselves solely to the evidence which has been brought before you in the course of her royal highness's defence. It has been proved to you, that Bergami was retained as a courier at forty louis a year. You have seen that his rapid elevation to be the constant and sole attendant of her royal highness, and to live with her in the greatest outward appearance of familiarity was marked by circumstances the most suspicious;—

that, at an early period of the connexion, there must have been secret communications betwixt them, which led to the introduction of his sister, in a manner calculated to lull the suspicions of her royal highness's attendants, and to facilitate their intercourse;—you have seen him placed at her royal highness's table, habitually sitting by her side, his presence apparently so necessary to her, that, notwithstanding the remonstrance of captain Pechell and captain Briggs, she could not admit of his absence during the four days she passed in the Clorinde;—you have seen, that as far as vicinity of apartments affords opportunities, from whence inferences are to be drawn, that her royal highness uniformly placed him as near to her as possible;—you have seen him elevated to the title of a baron, and decorated with the orders of Malta, of St. Sepulchre, and that of Grand Master of the order of St. Caroline. Hownam has given you a list often of his family who were employed in her service, many of them ultimately introduced to the table with her royal highness and her favourite;—and you have heard, that the only person connected with him, who never was admitted to appear before her royal highness was his wife.

From these facts, I desire to know what conclusion any man can draw, when he finds that Bergami slept under the tent with her royal highness, by Hownam's informing you, that he saw him come out of it with her in the middle of the night? To what motive can you fairly ascribe this conduct, but to that which sanctions the inference of guilt? Is there, in the evidence, any account of singular service performed, which can authorize any man's accounting for this rapid display of favour, friendship, and familiarity, on the ground, either of his extraordinary merits, or gratitude for service performed?

Why, my lords, if, instead of that scene, where he is supposed to have distinguished himself at Genoa, when the house is said to have been attacked by robbers, on which occasion, Hownam, describes him as coming, with a brace of candles and a sword at the latter end of the fray, for the princess and the family were by that time in the drawing room*—it had been clearly proved that he had saved her royal highness's life; would that have accounted in a satisfactory manner for all the circumstances that have been disclosed to you in the course of this evidence.

Acting on that principle, can any person account for the concealment of the fact, that the countess Oldi was his sister at the time she was introduced into the family,—or for his mother and his brother's not being introduced to her table at the moment the sense of his eminent services had made her royal highness resolve to show him distinguished favour, but gradually, one by one, just as the man, by secluding her from all other company, got power and ascendancy over a mind debased by the society into which her infatuated partiality had brought her.

But, above all, I ask, to what circumstance can you attribute his wife's being the only person of his family excluded from her royal highness's society, if gratitude for services had been the sole cause of his elevation; more particularly when you are informed by Pomi and Vassali, that, so far from being on bad terms with his wife, the moment he returned to Italy, after her royal highness's leaving it, she appeared at the Barona?*

Allow me farther to call to your lordships recollection, that I have not yet stated to you the full extent of the benefits which the evidence for the defence shows to have been conferred on him by her royal highness's favour;—neither have I yet pointed out the degree of degradation, to which, in the course of this connexion, she was, according to the evidence of her own witnesses, subjected—for, though I remember the learned counsel at the bar disputed its being in evidence, you will find that Fillipo Pomi distinctly proves, that the Barona, consisting of a considerable estate, in the neighbourhood of Milan, was purchased early in 1816† by that man, who, in the month of November 1814, was happy to acquire a courier's place, receiving only forty Louis a-year; and I am sure you must recollect the scandalous debasement, in point of society, to which her royal highness was reduced, as appears from the evidence of this witness, as well as that of Vassali on the subject of the balls at the Barona.

It is true, Pomi informs you, that, on

* See p. 497 of the present Volume.

* See pp. 695, and 952 of the present Volume.

† Ibid. p. 689.

the occasion of these balls, the society that frequented the Villa Bergami were gentlefolks,—but who were these gentlefolks? The daughters of the farmer at the Barona—the wife and sister of one of the innkeepers of the village, the latter of whom he describes to be a girl well brought up, and the flower of gentlefolks —the landlady of the St. Christopher— —and another girl, in calling whom a respectable woman, saying, "that *she* was not a prostitute," * he speaks volumes in relation to the society which frequented these balls, with whom her royal highness occasionally joined in the dance.

By Vassali, too, this is all confirmed; for, though he certainly says that these balls were attended by a physician of the name of Tomasia, by Cavaletti, an exprefect—by Mocatti, the village apothecary; and that the wives of the two former were there as well as the distinguished female characters Fillipo Pomi introduced to you; yet he informed your lordships, that he did not see their daughters, and that his own wife never had been present.

Now, my lords, reflect on all these facts, which are stated exclusively on the authority of the witnesses for the defence, forming a chain of circumstances, relative to the conduct of her royal highness, from the hour Bergami was introduced as a menial servant into her house, all leading to the conclusion that a libidinous intercourse existed—facts which can be rationally accounted for on no other principle. Recollect, also, the received maxim of law, that, in cases of adultery, it is not necessary to prove a direct act; that the facts being judicially established, the rational and legal conclusion is the same which must be deduced by inference such as common sense justifies, from the facts judicially proved,—and then tell me, with the knowledge of the fact that Mr. Hownam has disclosed to you, of their sleeping under the same tent, whether it would not be a libel on the principle on which justice has been heretofore administered in cases of adultery, both in the courts below and in this House, to say, that a verdict of not guilty could possibly be justified,—or whether I, as an honest man, if forced to judge of the case exclusively on this evidence, could pronounce any other verdict than that of guilty?

What then, my lords, becomes of Restelli's conspiracy? What of that plot of which you have heard so much, of which Ompteda has been represented to be the contriver? For, unless it is supposed that the ghost of Ompteda now animates the frame of my friend, Mr. Vizard, and has induced him to retain the learned gentlemen who have so distinguished themselves at your bar, it is absurd to introduce his name, or to say that he can have any thing to do with the case. For it is clear that, in this view of the case, which infers guilt exclusively from the evidence for the defence, your lordships can believe in no conspiracy, unless you are prepared to give credit to the absurdity, that the authors and conductors of this defence, her majesty's learned counsel, who have displayed at your bar a degree of zeal unparalleled, and of talent almost unprecedented, are the conspirators.

Yet I must repeat, that if forced to decide on the evidence produced by them in defence of her majesty, excluding the testimony of all the witnesses that have been brought before this House by the learned gentlemen who have been called to your bar to support the allegations of this bill, it would be impossible for me, consistently with a due regard for the uniform practice of this House, and of the courts below, and for the principles on which criminality in cases of adultery has been inferred, not to declare that guilt has been proved.

Fortunately, however, my mind is relieved from the necessity of coming to this conclusion, solely on the ground of the evidence brought before you on the part of her royal highness; because, when I turn to the evidence for the prosecution, throwing out of the question every thing against which any exception can be taken, or to which any objection can be urged, I find confirmation of Hownam's evidence, and of the inference I have drawn, from the testimony in her royal highness's defence, more abundant than, perhaps, there ever was in any other case where a direct act of criminality was not proved, which, as your lordships know, does not happen in one case out of a hundred.

For Hownam's evidence in regard to her royal highness and Bergami's sleeping under the tent is confirmed by no less than five witnesses: three of them, the captain, Demont, and Majoochi,

* See p. 693 of the present Volume.

swearing directly to the fact; and two of them, the mate of the polacre and the cook, stating circumstances that must convince one and all of your lordships of what took place; for you must well recollect, that the former of these tells you, that, when the tent was opened, he saw Bergami lying on the bed, and the princess on the sofa; and that he states, that "What he morally knew was, that they told him they could not sleep below on account of the noise and smell made by the horses which were taken on board at Jaffa."

I am aware, however, my lords, that much has been urged at your bar against the credit of Demont and Majoochi; and my noble and learned friend, whose absence I regret, even went the length in what he addressed to you, to say that these witnesses were given up as incredible by my learned friend on the woolsack. I confess I should have been surprised if that had been the case; because I would have thought it very inconsistent with that accuracy which distinguishes my noble and learned friend on the woolsack with regard to every thing in the nature of judicial proceedings; it gave me pleasure, therefore, to hear his explanation, which accurately corresponds with my own ideas on the subject.

But I am ready to admit, in the case of Demont, that her credit is, to a certain degree, injured by the Letters to her sister produced in evidence, and the explanation of it, as a *double entendre*, given at your lordships' bar. I am ready even to admit that her credit is injured to a degree that I would not find her royal highness guilty in any case which depended on her evidence alone; but, my lords, she cannot be considered as an incompetent witness; and I conceive that there is not a clearer distinction in law, than that betwixt an incompetent witness and one that is in a degree discredited, I talk with that diffidence which becomes me on subjects of this nature; but I believe the rule of law, even in the case of an accomplice, who is a witness of a description much more discredited than Demont, is, that credit is due to him when his testimony is confirmed by a credible witness. Nay, that, if the general story is confirmed by a credible witness, he is held to deserve credit with regard to the minor details, even though, with respect to these, he may not be directly confirmed. I believe also, that if a witness, in a certain degree discredited, specially states that the facts he relates passed in the presence of others who may be called to contradict him, if such testimony, being in the power of the opposite party, is not brought forward, it of itself gives complete credit to his evidence.

I confess to your lordships, however, that there are passages in the letters of Demont, produced at your bar for the purpose of discrediting her, which have, in my mind, a very opposite effect. If, for example, your lordships will turn to the letter she wrote to the Queen from Rimini, you will find that she thanks her royal highness and the baron for their kindness in having sent a person to accompany her. Now, I ask any one of your lordships if such a passage could have crept into that letter unless she had written under the impression that the connection existed between her royal highness and Bergami, which her evidence goes to establish? Do your lordships believe, that it could have entered into the mind of any one who had received an act of kindness on the part of her late majesty, to thank her majesty and the earl of Morton for the favour she had received? Yet, if you suppose no improper connection, Bergami stood in the same relation to her royal highness with that of the noble lord opposite to me, to her late majesty.

I must further confess to you, that the evidence of Demont was, in my opinion, rather confirmed than discredited by the testimony of that pert milliner of Morge, brought to your lordships' bar to contradict her, nearly at the conclusion of the case, who told you, that, upon putting questions to Demont, in the presence of two Swiss ladies, who themselves found fault with the freedom of her interrogatories; Demont put herself into a passion, and said, in reply to her observation, "That the princess of Wales was a *femme libertine et galante;*" that it was nothing but calumny invented by her enemies, *—an answer which, from Demont in a passion, appears to me to be perfectly consistent with what she stated at your lordships' bar, that she had often had questions put to her in private conversation, but that she had always avoided saying what took place in the house. †

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* See p. 984 of the present Volume.

† See Vol. 2, p. 1203.

My lords; I am also fully aware of the prejudice which has been artfully created against Majoochi as a witness; I know the popular use that has been made of the Italian phrase "*Non mi recordo;*" but I think I could undertake to show you, notwithstanding his examination was, at last, artfully conducted for producing a repetition of that phrase; that if some of the English witnesses had spoken in Italian, it would have occurred as often, in a given number of pages in their testimony, as it does in his. I remember, too, the early impression against him produced by the manner in which her majesty's counsel declared that it was necessary to her case, that he should be immediately brought to your bar for farther cross-examination,—a necessity which we now know did in no respect exist; and you cannot have forgot, when he came to the bar, the pointed manner in which he was asked concerning conversations with a gentleman of the name of Hyatt, with a Mrs. Hughes, with a banker's clerk, and with a Mr. Johnston, in a stage-coach, which, I am sure, left the same impression on your minds that it did on mine, and that of the public at large, that these individuals would be called on oath to contradict him.

But has this been the case? Your lordships know, that no such attempt has been made. It is, however, certain that such a contradiction appeared necessary, even to her majesty's counsel, to invalidate Majoochi's testimony; for you have witnessed the anxiety with which it was subsequently attempted in the examination of Carrington, a witness who has, indeed, sworn to facts directly contradictory to Majoochi's testimony, but who has also sworn to facts completely contradicted by sir John Beresford: if you give credit to Carrington's testimony, therefore, your lordships are reduced to the necessity of disbelieving sir John Beresford as well as Majoochi; and I believe there is no man in this House entertains the smallest doubt of the truth of what sir John Beresford stated.

In truth, however, my lords, the testimony of Carrington, relative to the point in which he contradicts Majoochi, is in itself incredible, if you believe what his master, sir William Gell, states in his evidence; for your lordships recollect, that Carrington states this conversation about Ompteda, which Majoochi denies to have taken place, to have passed at Ruffinelli in the month of July; he doubts whether it was in the year 1817 or 1818. Now, if it was in the latter, it must be false, because Majoochi quitted her royal highness's service in November 1817; but whether it was in the one or the other of these years, it could not take place in the month of July, for both sir William Gell and his servant state, that they passed three days at Ruffinelli, returned to Rome, and then went to the Villa Brandi, sir William saying, that he staid with her there three months, and that these were the months of June, July, and August, so that in the month of July they could not be at Ruffinelli.

It is true I regard Majoochi as a witness in a degree discredited as well as Demont; he has been guilty of errors of recollection, first, in stating that Bergami dined with her royal highness at Genoa, and continued to dine with her ever afterwards. And, secondly, he is contradicted by Dr. Holland, in his assertion that her royal highness was present at Naples when Bergami's leg was first dressed; but so far from being an incompetent witness, these are errors which involve but a very slight degree of impeachment of his credit. Errors of recollection, indeed, may be of a nature rather to strengthen than impeach the credit of a witness, as far as his credit depends on a belief of the absence of all concert and design to deceive; and it must be evident to your lordships, that if he had come a corrupt and tutored witness to your lordships' bar, he never would have stated Genoa as the place where Bergami first dined with her royal highness. I avow, however, my lords, that such is my desire of certainty, so strong the inclination of my mind to decide nothing on evidence in the least degree doubtful, that I could not be brought to infer guilt from any thing stated by him in which he was not confirmed, or where it was not apparent that witnesses were withheld who had it in their power to contradict him.

To the testimony of the captain of the polacre and his mate, I have heard no ground of objection, except what arises out of the sums they are to receive for coming here, the former of whom bargained to receive 1,000 dollars a month, and the latter 800. These, I know, have been stated as sums *annually* amounting to 12,000 and 9,600 dollars. Taking it in this point of view, it has been insinuated that it was far more than could be de-

manded for compensation; and inferences have been drawn disreputable to their credit. But your lordships are aware that there was little prospect of its continuing above two or three months at most, and you must recollect, that the captain of the polacre, who is now a merchant at Naples, states to you the losses he has already sustained in the conduct of his trade; and you know, that, as the jurisdiction of our courts does not extend to foreign countries, a party is always at the mercy of a witness, in bargaining concerning the indemnity he is to receive for his loss of time in coming to this country; and I must say, this objection comes with bad grace from those who have brought the witnesses summoned on the part of her royal highness to your lordships' bar; for it has been proved, that the mason Giarolini, on whose evidence all that attack upon Restelli mainly rests, confesses, that he had got first a bond for 2,100 francs; secondly, that his son was to have five or six francs a day; thirdly, that he was to have a golden Napoleon a day; fourthly, that his son was to be taken as an apprentice by her royal highness's architect; and out of his evidence there farther arise strong presumptions that he secured to himself payment of the last instalment of what her royal highness owed him with interest thereon.

Whilst, therefore, my lords, I can discover no ground upon which the character of the captain or the mate can be fairly impeached, and can only regard the testimony of Demont and Majoochi, as in a degree discredited, I desire to know how it is possible to doubt of the fact, of her royal highness and Bergami having slept under the tent for five weeks, betwixt Jaffa and Capo d'Anza, when the testimony of Hownam is confirmed by these witnesses, as well as by that of the cook on board the polacre; and when no attempt has been made to disprove it, though your lordships well know, that if it was false, her royal highness's learned counsel could have no difficulty in finding witnesses capable of disproving it; for countess Oldi and Brunette were on board the polacre during the whole voyage, as well as William Austin, Carlino, Camera, Hieronimus, and above all Schiavini, who is the person stated in evidence to have given orders for closing the tent, when her royal highness and Bergami were under it.

But, sleeping in the polacre for five weeks is not the only important fact as bearing on this case, which has been established by indisputable evidence, brought to your lordships' bar by the prosecutor. I do not dwell on that scene of the statues of Adam and Eve, because I do not wish to occupy your time in showing you that it is not disproved, nay that the plan given in to you by the witness brought to contradict it, confirms the probability of the story you had heard; I do not wish to recall to your recollection, those disgusting scenes of licentious conduct, as stated in the evidence of Restelli and Sacchi; the absence of the former from this country, not only induces me to set aside his testimony, but to make every allowance which reason and common sense can in the least degree justify, with regard to the evidence of others whose testimony could have been affected by his presence, or even by the detection of his perjury. Neither, can I allow myself to found on any thing which has been stated by the latter; for though I think there are great contradictions in the testimony of those who have been called to contradict Sacchi, yet, acting on the principle of allowing nothing to influence my mind, concerning which there exists a doubt, I will not found upon any fact that depends upon his testimony; but I cannot pass over the uniform proximity of the bed-rooms of the princess and Bergami, proved by the arrangement of the apartments at Naples,—at Genoa,—at Milan,—at Venice,—at the Villa Villani,—at the Villa d'Este,—at Messina,—at Siracuse—at Catania,—at Augusta,—at Scala Nova,—at Aum,—at the Villa Bergami,—at Turin,—at Carlsruhe, throughout the German dominions,—and at Pesaro;—for in all these various cases, the relative position of their apartments has hardly been disputed, except in the instance of the Casa Boromeo at Milan, in which case, their rooms were stated to have opened into a secret stair-case, which Hownam denies, stating the stair-case to have conducted to the servants' apartments, though he admits he never saw a servant use it.*

Let me next call your lordships' attention to the important and decisive circumstance, that there are no fewer than thirteen witnesses who swear to the fact of having seen this courier embracing and kissing her royal highness. Now discard-

* See p. 498 of the present Volume.

ing, if you will, out of that number the testimony of Majoochi, of Restelli, of Demont, of Guggiari the boatman, and of Sacchi, there are still eight witnesses unobjected to, who swear to this fact, which generally forms the prelude to, and the proof of a libidinous intercourse.

Your lordships will find it stated by Vincenzo Gargiulo; by Gerolamo Mejani; by Alessandro Finetti; by Domenico Brusa; by Giuseppe Galli; by Luigi Galdini, who states himself to have seen Bergami kissing her royal highness, with one hand round her neck upon her breast, which was uncovered; and by Giuseppe Dell-Orto, who informs you, that he saw Bergami with his hand round her neck, kissing her, in the garden.

My lords; I must desire, also, you will recollect the tender appellations of "my friend," "my heart," my love," which, it is proved, her royal highness used in addressing this man; and adding all these facts to the history of all the suspicious circumstances I have detailed to you, in the progress of his advancement from a courier, to his being exhibited at her table under the title of a baron, as the exclusive confidant and daily companion of her royal highness,—tell me whether it is possible to doubt of the inference I am compelled to draw, when I find him sleeping under the same tent with her royal highness for five weeks; for I am sure there is none of your lordships, who are so ignorant of the grounds on which the presumption of law proceeds, as to suppose that there is any difference betwixt this taking place in a tent and a room. From the testimony of Gargiulo, it, indeed, appears that the hatchway was occasionally shut up, which circumstance, as well as the fact he states, of the light being handed out of the tent by Bergami, ten or twelve minutes after they retired, a fact confirmed by all on board who have been examined, annihilates all possibility of pretending a distinction; but, even taking Hownam's account, which supposes the hatchway to have been left open, I am sure you must agree with me, that in law there is no ground for any distinction, for the presumption of law does not proceed on an assumption, that an act of adultery was committed on any precise night, but on the belief that habit, education, as well as female delicacy, naturally induce a woman to revolt at exposing herself to such a scene, under any circumstances short of that familiarity to which sexual intercourse gives birth.

Hitherto, your lordships must perceive, that I have inferred the guilt, coupled with the presumptions, which this strange history affords, singly from their sleeping under the tent for five weeks in the polacre. But your lordships know, that there are many cases from which the conclusion of guilt has also been drawn by the counsel for the prosecution. In considering all of them, I must fairly confess, that, besides the polacre case, I feel myself compelled to state, that it is impossible for me not to infer guilt from what passed at Catania, and under the tent at Aum, as well as the subsequent night in the journey to Jerusalem at Bagosa; and I should feel it inconsistent with the principle of openly avowing the grounds on which I act, if I did not shortly state to your lordships, the reasons on which I have formed this opinion.

In the first place, however, allow me to observe, that, though I am not inclined to infer guilt from what has been stated as having taken place at Naples, at Genoa, at Turin, at general Pino's, at the Villa d'Este, on the occasion of her royal highness's going out of the pantry, at Monte Falcone, or at Trieste, yet I cannot deny, that all of these cases afford circumstances of strong suspicion, which, if there was any doubt, would tend to corroborate the inferences I am forced to draw in other cases, for, in truth, I reject many of these cases, from the circumstance that there is doubt, rather than because the presumptions from which guilt must be inferred, have been clearly disproved.

In the Naples case, I am not disposed to infer guilt, because the facts to which Demont and Majoochi swear are not confirmed by any other witness, and because, if I were not afraid of occupying your lordships' time, I could show you that the circumstances which they state do not carry along with them a disclosure of any particular person's being present, who could be called to your lordships' bar to contradict them.

On the same grounds, I will not infer guilt from the case of Genoa, more particularly as the facts stated by Demont are not confirmed by those stated by Majoochi, nor those Majoochi states by Demont,—neither of them giving you any details of the circumstances to which the other exclusively speaks. I reject also the case of Turin, because I am not satisfied that Birollo distinctly proves it to

be the princess's room out of which he saw Bergami coming.

With regard to the scene in the pantry, as stated in the evidence of the boatman Guggiari, who declares that he saw Bergami and her royal highness retire into her bed-room, and heard the door locked,* I have no doubt that the facts are such as to authorize the presumption of guilt; but when I feel that there is evidence clear and distinct to guide my mind in other cases, I do not choose to infer it from a case that admits of the least doubt; and your lordships will recollect that Guggiari had declared Lago Maggiore was in the boat when he saw Bergami kiss her royal highness; and that this blind boatman, Lago Maggiore, was brought to prove that he saw nothing of the kind. Indeed, in the state of his eyes, when he was at your lordships bar, it was impossible that he should; but it is true, that on a question put to him with regard to his defect of vision, he very conveniently dated the disease in his eyes as having taken place subsequent to the time he had been in the boat with her royal highness.

Allow me, however, to say, that Lago Maggiore swearing he did not see what Guggiari swore he saw, is no contradiction of Guggiari. My lords, on the occasion of Majoochi coming to your lordships' bar when her majesty exhibited that scene in this House which must long remain impressed on the minds of those who witnessed it, I certainly, sitting near her majesty, saw all that took place, and could now swear to what happened; but there were other noble lords at no great distance from me whose eyes had probably been turned in a different direction, who, immediately on hearing the extraordinary exclamation her majesty uttered, asked me what had taken place; they, of course, must, if examined, swear that they saw nothing, but your lordships could not regard that as a contradiction of the details which I certainly would state on the subject. I am inclined to think, therefore, that there is no reasonable ground for doubting Guggiari's evidence, more particularly as your lordships must recollect he swears that his brother, or John Capella, were present at the time;† neither of whom have been called as witnesses. In that case, therefore, I do not infer guilt, rather because there are other cases which I deem stronger, and which, unfortunately, so clearly establish guilt.

The case of Trieste I put also out of the question, because undoubtedly I feel that, contradicted as the witness Cuchi is, in relation to the fact of her royal highness having remained there six days, there can be no reliance on his evidence; neither will I infer guilt from the case of Scharnitz, and the case of Carlsruhe, not because I disbelieve the witness Kress, or give any peculiar credit to Vassali;—far otherwise, for I think there is none of your lordships who recollect the evidence of Kress, and the mode in which she gave it at your bar, who must not retain a favourable impression of that woman, and of her conduct throughout; whilst, on the other hand, I must say, that the impression on my mind with regard to Vassali's evidence is of a very different nature. I cannot forget that he had confirmed Kress's evidence, till his examination by a noble lord near me, when, all at once perceiving the consequences of his testimony in confirming Kress, he states, in an answer to one of the last questions put to him, the improbable fact, that the princess having gone in full dress to an early dinner, remained in his presence in the saloon on her return home at seven o'clock without retiring, till she went again to supper at court, from whence she did not return till a late hour.

Your lordships must also recollect the mode in which he declared that Carlo Forti had first been taken into the service as a temporary courier at Loretto, till recollecting, by the aid of a question, that he had stated himself to have been hired at Milan, he all at once made him come from Milan with them as a private individual, though even this does not make his evidence consistent with that of Carlo Forti.

It is not, therefore, from any disposition to disbelieve Kress, or to give credit to Vassali, that I avow it to be impossible for me to infer guilt from the Carlsruhe case; it is because the industry used to get Kress into this country, and the difficulty thrown in the way of baron d'Ende coming, make me think it right to refuse to listen to what I must conceive to be in some degree *ex parte* evidence.

On the Catania case, however, I profess not to entertain the least doubt.

* See Vol. 2, p. 1264.
† See Vol. 2, p. 1266.

Your lordships will recollect, that, on their first arriving there, Bergami appears to have been lodged in an apartment which communicated with her royal highness's, through the drawing-room and a small court; that afterwards he had a temporary illness, such as might make it very inconvenient for him to be exposed to the air, though not in itself serious; on this occasion a new arrangement of the apartments took place, a bed was put up in the room where the princess and the child Victorine slept for countess Oldi, and Bergami was removed into countess Oldi's room; the relative situation of these apartments then was, that the princess's room was divided from that which Bergami occupied by a room in which Demont and her sister slept, which formed a passage from the one to the other. Demont states to you, that generally speaking she got up before nine, the hour at which the family breakfasted, but having one day slept so late as 10 o'clock, that she saw her royal highness come out of Bergami's room with the pillows on which she always slept, and in the dress she usually wore when she went to bed. She further states, that she heard the little Victorine in the princess's room calling for her mamma, the name which Bergami's daughter habitually gave to the princess, and the countess Oldi trying in vain to soothe her. She also says, that she heard the door of her royal highness's apartment opened another night; that her sister slept in the same room with her; that her sister was up, but she does not recollect distinctly whether she was present when her royal highness came out of Bergami's room with the pillows. Now, my lords, all this remains uncontradicted. It is true, we do not learn with certainty, from the evidence, that Brunette was there, for Demont only swears that she thinks so; but your lordships will recollect, that this difficulty is done away by the learned counsel for her majesty in his opening speech, for he told you that Brunette would be called to contradict the fact, which could not have been the case if she had not been in the room with her sister. Besides, countess Oldi might have been called to your lordships bar to contradict Demont, for she must undoubtedly have known whether she was employed in quieting Victorine in her royal highness's absence; the inference, therefore, is inevitable,—withholding these two witnesses, must on every principle confirm the credit of Demont, even if she was a much more suspicious witness than there is any ground for considering her.

I have only now, my lords, to state to you the evidence in the case of Aum, which I confess to you appears to me equally conclusive. You will recollect that it was at this place her royal highness and her suite slept under tents on the journey by land to Jerusalem, the first night after they left St. Jean d'Acre, and that the second night was passed under similar circumstances at Bagosa. Hownam tells you, that the tent in which her royal highness slept on this occasion was a double tent, and that there was a gallery betwixt the outer and the inner tent. When interrogated, he also states, that he does not know, of his own knowledge, that Bergami slept under this tent with her royal highness, but he dares to say he did; Majoochi swears to the fact, and Demont declares she undressed her royal highness as usual, and left Bergami and her under the tent. The mate of the polacre swears to having seen the two beds on which Bergami and the princess usually reposed placed under this tent, and that he never saw Bergami sleep under any other tent, though, as he retired when Bergami, countess Oldi, and Austin were under this tent at dinner, and went to rest, he could not swear to Bergami's sleeping under it. Majoochi further declares, that after the princess and Bergami were shut up in the inner tent, he slept on the one side of the gallery, and Carlino on the other, during all the time of their repose.

Here, then, my lords, we have not only that concurrence betwixt the testimony of Demont and Majoochi, which fortifies both, but we have a confirmation of the circumstances stated by them, from the mate and from Hownam, which puts the truth of it beyond a doubt, more especially when it was in the power of the counsel for the defence to call to your lordships' bar Carlino, who, from the circumstance of his sleeping in the gallery, must have had it in his power to contradict Majoochi's evidence if false, and countess Oldi, Austin, and Mariette Brunette, the two former of whom are stated to have dined with her royal highness in the tent after the two beds were placed within it, and the latter of whom accompanied her royal highness during the journey to Jerusalem.

To me, therefore, my lords, it appears proved, by indisputable evidence, that her royal highness was in Bergami's room during the night at Catania,—that she slept with him in the same tent at Aum, and at Bagosa,—and that she passed the night, for five weeks together, under the same tent in the polacre;—and when you recollect all the previous circumstances I have stated from the evidence concerning the sudden elevation of this courier,—the suspicious circumstances attending the mode in which her royal highness was surrounded by his family,—the favour she showed to all of them, with the single exception of his wife,—the proof we have of familiarities, to which love alone gives rise, indicated by the tender appellations she used towards him,—and the incontrovertible evidence concerning their kissing and embracing,—I desire to know whether it is possible for any man to differ on the conclusion. For I again ask, whether there is in the evidence any detail of services performed which can account for the favour shown to this man?—Nay, I desire any one of your lordships to state what service, consistent with the supposition of her royal highness's innocence, he could have performed, that could satisfactorily account for all the suspicious circumstances I have detailed to you, coupled with the fact of her royal highness's ultimately passing the night in the same room, or under the tent with this man.—To me, I confess, it appears impossible that any man, endowed with common sense, who calmly and deliberately views the case, can hesitate in regard to the inferences he must draw from her royal highness's conduct. In the course of this proceeding, I can assure your lordships, I have endeavoured, to the utmost of my power, to divest my mind of all prejudice, and, after the most laborious attention to this evidence, and the most minute consideration I am capable of giving it, I am under the painful necessity of declaring, that I cannot conscientiously express to you a doubt of her majesty's guilt;—nay, I will fairly own, that it surpasses the power of my imagination to conceive how any man of common understanding can entertain a doubt on the subject, unless, indeed, he is prepared to maintain,—that the doctrine of law, as laid down by the learned counsel on both sides of your lordships' bar, is unfounded;—that the uniform decisions in the courts of law, and in your lordships' House, have been erroneous;—and that, to authorize a conviction in such a case, it is necessary to have direct proof of an act of adultery.

My lords; I ought to apologize for the length of time I have occupied your lordships; but I must fairly say, that I felt it impossible, consistently with what I owe to my own character, and to the character of your lordships' house, not to go at large into the subject, so as to give every one of you an opportunity of canvassing the grounds on which I have formed my opinion, and to dispel from your imaginations, as well as that of the public, the possibility of attributing my conduct to any indirect motive;—I say, due to the character of your lordships' house, because no one individual in it can be represented as acting from base motives without injury to all; and your lordships cannot suppose that I am ignorant of the base and scandalous insinuations, as malignant as they are unfounded, which have been brought forward to misrepresent the motives of the conduct which I have pursued, tending to create a belief that I had sacrificed my integrity, as a judge, to views of private interest, to which, I believe, it would be difficult to prove, that any man, throughout a long political life, ever showed greater disregard,

No, my lords,—far from being ignorant of the unpopular feeling which has been industriously excited against me, the numerous anonymous letters, full of the lowest and most vulgar abuse, have explained to me, more distinctly than even the paragraphs I have seen in common with your lordships in the periodical publications of the day, the mode in which calumny and misrepresentation have affected the public mind; but what disgusts me still more, is the sad view of the interested meanness of many of my fellow-countrymen, who, not being able to conceive that I could agree in a judicial question with those with whom I generally differ in politics, without having secured some object of my own, and, giving credit to the report that I was going governor-general to India, have daily pestered a person who has as much idea of going to the North Pole as of doubling the Cape of Good Hope, with applications for preferment in India.

I can assure your lordships, that, no longer ago than yesterday, I received a letter from a physician, inclosing certifi-

cates of his character, and soliciting, in due form, the appointment of medical attendant on my person during my residence in India; an office, which this gentleman would, in my opinion find to be no sinecure, if he undertook to bring me home alive; but such solicitations must abundantly prove to your lordships the effect these disgraceful calumnies have had, and explain to you the anxiety of a man, conscious how little he deserves to be so unjustifiably slandered, to put it in your power, and in the power of every man in this country, to judge of the grounds on which his judgment proceeds, and to decide whether it is those who chime in with the popular clamour of the day, or those who conscientiously resist it, whose motives are most to be suspected.

My lords; it now only remains for me shortly to submit to your lordships' consideration the reasons why I, who think that the guilt of her royal highness has been distinctly proved, cannot, on the ground of expediency, concur in negativing the second reading of this bill; for, though I certainly agree with those who maintain, that no member of this House can vote for the second reading who is not satisfied of her majesty's guilt, I must admit, that it is competent even for a person, who thinks the guilt proved, to vote against this bill; nay, I can conceive the grounds on which a person may maintain, and fairly maintain, the opinion that there is no inconsistency in avowing the guilt to be proved, and in voting for the rejection of the bill; though I confess, that, in this case, where the propriety of proceeding by a bill has been fully discussed, and a majority of this House has decided in favour of a legislative proceeding, I doubt whether it is not the sounder opinion, that we ought to confine ourselves solely to the guilt or innocence of the party; the House having previously determined on this as the preferable mode of proceeding.

By many of your lordships, I know, that this bill is objected to as a bill of Pains and Penalties, and so it has been generally considered. If this, however, is a bill of Pains and Penalties, your lordships must allow me to say, that you never had in your House a divorce bill, which does not equally deserve the appellation. It is, in my conception, a bill, which enacts, that the rights and privileges her majesty acquired by the laws of this country as Queen Consort shall cease. On the general principle that, as no rights or privileges can be enjoyed by any one without being attended with, and subjected to, concomitant duties; so it is fitting, that all rights and privileges should terminate whenever there is an incapacity to perform the duties attached to them; and I have no hesitation in declaring, that in my humble opinion, her majesty's guilt disqualifies her for the due performance of these duties.

It is a bill, of which it may also be truly predicated, that it, in substance, enacts nothing against the Queen, which is not inflicted, by the laws of the land, on every lady who has the misfortune to be divorced. It, in fact, only enacts, in direct terms, what in law is the legal consequence of a divorce bill, and what has been the consequence of every divorce bill that has ever yet passed your lordships House; and yet I cannot recollect ever having heard the objections, so much urged against this measure, stated in the case of a bill of that nature, neither can I charge my memory with its ever having been hinted, that the enactment of such pains and penalties would be attended with danger to the liberties and constitution of this country.

But, assuming that it is a bill of Pains and Penalties, I cannot agree to the general doctrine which your lordships have heard stated in this House, that bills of pains and penalties are in themselves so unconstitutional, that it is the duty of all who feel warmly for the constitution and liberties of this country, at all times, and under all circumstances, to oppose them. To this opinion, as broadly laid down, I cannot assent. On the contrary, though I think with many of my friends around me, that bills of pains and penalties ought not to be resorted to but on extraordinary occasions, I agree with them in thinking, not only that there are cases in which this mode of proceeding may be beneficially resorted to, but that it would be injurious to the best interests of this country if this practice was to be completely abandoned. For to me it appears, that the existence of it is a salutary check on those who may wantonly abuse power vested in their hands, or who may attempt to attack the rights or liberties of their fellow-countrymen.

I am aware that there are also amongst your lordships some who conceive, that though bills of pains and penalties may occasionally be resorted to, yet are dis-

posed so strongly to maintain the opinion, that this is a case where impeachment would have been the more proper line to have pursued;—that they on that ground, think themselves justified in rejecting this bill. From this opinion I should also decidedly dissent, even if I thought impeachment the preferable line to have followed, because I cannot conceive on what ground a difference in the form of proceeding can now justify a denial of justice.

In truth, however, I am still of the same opinion I delivered in the Secret Committee, when I concurred in recommending a legislative proceeding. When this subject was formerly before your lordships for discussion, I did not abstain from expressing my sentiments, though I confess to you, that at that time I had some difficulty in stating to you fully the grounds upon which they proceeded. I had been a member of the Secret Committee,—of course I knew much of the evidence which was to be brought before you, though I could not then, in justice, disclose the nature of it, or dwell on the difficulties, in point of law, which I foresaw must occur, and which you have since so abundantly experienced, and which I am certain has convinced every man who listens to me, that it required all the judicial habits of this House, all the advantages we have of being enabled to examine on oath, and in having the power of commanding the attendance of the learned judges, to proceed with this case in a manner that gave any chance of our coming to a just conclusion.

With the knowledge of the nature of the evidence which was likely to be brought forward, to have brought this before the other House by way of impeachment, which would have made it necessary for that House to decide, in the first instance, on such a mass of *ex parte* evidence, must have appeared to all unjust in the highest degree to her majesty, unless to those who supposed, that, guided by the clamour of the day, and the dread of their constituents, that House would, with acclamation, and without inquiry, have dismissed the proceeding, which would have been disgraceful to the country, and an act of injustice to the accuser, as well as the accused.

To the accuser, because an acquittal, without a fair and impartial examination of the grounds of evidence, is, to all intents and purposes, a denial of justice:—To the accused, because an acquittal of such a nature, though it protects from penalty, in no respect possesses the more desirable attribute of proclaiming innocence.

Such were the reasons for my concurring in recommending a legislative proceeding; and I confess to your lordships, that the experience of what has taken place here in no respect makes me desirous of retracting the opinion in which I concurred with the committee; for I must fairly state, that, in contemplating all the difficulties we have encountered, I think it would have been a farce to have expected any thing like justice, where there was no power of examining upon oath, no appeal to the judges, and habits in the highest degree hostile to that calm inquiry which ought to characterize judicial proceedings.

My lords, this is no singular opinion of mine; for one of the grounds of expediency urged for not passing this bill is, the thorough impossibility, as is stated of its ever passing the other House of Parliament,—a speculation which must proceed upon the idea, that that House will decide by acclamation, because no man can prejudge the effects which evidence, duly examined, will have on the mind. With your lordships, however, I am sure, in the present state of things, this argument, to prove the expediency of rejecting the bill, can have no weight. Things are now in a very different state from that in which they would have been, had a proceeding taken place, in the first instance, before the House of Commons by impeachment; the case is now in a certain degree matured; it will come before them for decision, not on *ex parte* evidence, but with an opportunity of examining all the witnesses that either side may think it right to produce. I know the effect that the evidence has had on my own mind; and I do not think any man can be justified in presuming to prophesy that the House of Commons will not duly administer justice in the case. Knowing, then, what I conceive the justice of the case to demand, I cannot feel any fear or dread as to what will be the result of the deliberations of that House.

Indeed, I know not how any member of this House can, on constitutional principles, express such an opinion. Your lordships well know, that to argue, that this House ought to adopt any measure, because the House of Commons had

adopted it, would be, to urge a reason to which, consistently with all ideas of order, you could not with propriety listen. Yet I must think, that the prophecies of members of your lordships House, concerning the consequences and probable result of future deliberations in the other House, would form a still more extraordinary ground for the regulation of your conduct.

I am free, however, my lords, to confess, that if I even anticipated the evils which seem so much to press upon the imagination of some of your lordships, I could not act on that narrow view of expediency, which contemplates only the danger and difficulty which may result from the decision in favour of one side of the question. If the question is to be decided on grounds of expediency, your lordships are bound to consider the consequences of abandoning the measure, as well as those of persevering in it; and I cannot believe that this House, if they agree with me in the conclusion to be drawn from the evidence, can hesitate in proceeding with this bill.

Your lordships know the wise anxiety that has long distinguished the laws of this country to guard against the fatal effects which are sure to follow from [the example of immorality in the conduct of those who are placed in that situation to which the female society of the country are taught to look up.

Your lordships have long felt, in common with the country at large, that the purity of female morals has been one of the proud and distinguishing features of our national character, when compared with those habits, comparatively indecorous, which custom has sanctioned in other countries; and I confess the inexpediency of permanently endangering the continuance of that attribute, by placing a person to preside at the British court, who must be looked up to as the head of the female society of this country, against whom such accusations have been proved, far outweighs, in my mind, any danger that can result from a short continuance of the temporary clamour on this subject which has been so industriously excited.

My lords, I have now only to apologize to your lordships for the great length of time I have presumed to intrude upon you, and most sincerely to express my gratitude for the patient hearing and singular attention with which you have honoured me. I assure your lordships, I have not vanity sufficient to attribute it to aught of eloquence or of talent that I can have displayed; but I do impute it to what I will fairly own to you pleases me much more,—to your lordships' conviction of the sincerity and integrity of the man.

The Earl of *Rosebery* said, that upon a question of such great national importance as the present, inferior to none which had been agitated in parliament since the period of the Revolution, and as to which, a silent vote in many cases, and probably in his own, could not give a correct expression of the opinion formed; he felt very desirous of offering a few observations to the House.

It was, therefore, for the satisfaction of his own mind and conscience, and not from the presumption of thinking that he could influence any of their lordships, which induced him to offer himself to the House at that moment: because, feeling strongly the impropriety of passing the bill, after the examination of the evidence at the bar, he was anxious to attempt to describe the views and sentiments he had taken of it, which had led to the decision at which he had arrived. Before doing so, he must be allowed to say, without arrogating to himself any particular claim to impartiality, that none of their lordships could have approached the question more free from party spirit, or bias of any kind, or more determined to discharge with fidelity, the heavy, and responsible duty which this case had cast upon the House. With respect, then, to the present bill, feeling as he did the full force of all the objections to that mode of trial and punishment, unless in instances of great state necessity, where the more ordinary and legitimate forms of proceeding could not, with safety, be resorted to: thinking that if this question could be entertained at all against the Queen, it could only be so, upon the principle of her crime being a public wrong, and if a public wrong, that it became an impeachable offence, he had given a vote, on a former occasion, for suspending this method of proceeding, for the purpose of leaving an opening for recurring to one of a more regular and constitutional character. But as the House decided otherwise, and as there did not appear in the bill itself, any additional harshness towards her majesty which was not either met by equivalents, or attended by superior advantages to her, of which the trial

being before two tribunals, instead of one, and the case being one to be decided upon principles of policy, as well as from the facts adduced, were the most conspicuous; he entered upon the investigation with the intention of supporting the measure, if the evidence of the Queen's guilt was of that clear, irresistible, decisive, and uncontradictory nature, as would have carried conviction to his own mind, and which, he thought, would sooner or later have made a similar impression upon the great body of the community. But, when instead of evidence of this description, there existed such a mass of contradiction in what was brought forward, when so much of it was either tainted by perjury, or supported by the testimony of those whose credit was entirely overset; when so strong a suspicion lurked, if not of improper practices having prevailed to obtain witnesses (and in saying this he desired to be understood as conveying not the slightest insinuation against the king's ministers), at least of persons volunteering their testimony in the hope of benefit to themselves; when, in addition to these facts and appearances, their lordships found, that one witness had absented himself, and another either would not, or could not come, both of whom were stated to be of importance to the defence, the case did appear to him to be reduced to what would not justify him, acting conscientiously and honourably as a juryman, to pronounce a verdict of guilty upon. But the present was a question as much of expediency as of fact: and in proportion as the evidence of the latter was weakened, in a still greater proportion was the inexpediency of passing the bill increased.

All those objections which were inherent to the principle of the measure, but which might have given way, and which, he thought, ought to have given way to a weight of evidence, and to flagrancy of guilt such as the House were led to expect would characterize this case, pressed forward with redoubled force when both were wanting, and when it is to be substantiated by a chain of suspicious circumstances, and by the inferences and conclusions to be drawn from these, not sufficient, in his judgment, to warrant the passing of such a bill as the present.

He would not detain the House by an enumeration of the several objections to the measure, or of the various grounds of inconveniency and hazard which would attend it. He was sure the promoters of it would have the candour to allow they were both numerous and strong; but he could not refrain from saying, that he trusted their lordships would think it to be their duty, as he should feel it to be his, notwithstanding all that had been urged by his noble friend on the cross-bench (Lauderdale), not to exclude from their consideration, the probability of the bill being rejected in another place, and to appreciate, with their just force, all the dreadful consequences which might ensue from this, to the Crown, to that House, and to the country at large. He was the last man to recommend to the House, on any occasion, to act under the impression of fear, to be influenced by popular clamour, or to abstain from doing what was just and right by the anticipation of popular resentment; but while disclaiming such views, he must say, that the conduct of that House upon this momentous question, was as much under trial not merely by the rabble or populace, but by the thinking, considerate, and most valuable classes of society, as that of the Queen was at the bar. As the object of his anxious solicitude, next to doing impartial justice to her majesty was, to uphold the character of the House in the public estimation, he entreated their lordships, to regulate their decision according to the beautiful principles, and beneficent practice of British justice; and if there was doubt in the proof, or deficiency in the evidence, to throw these considerations into the scale of mercy. He trusted they would couple with them, those reflections, which, as statesmen and legislators, must have the most important effect upon their deliberations, and then, that their lordships would ask themselves whether justice and policy combined, after the kind of evidence they had heard, demanded the enactment of this law—or whether, by passing the bill, they might not rather be defeating the one, and be acting contrary to the public interest, while they were giving to the disaffected and mischievous, a handle for wanton attacks upon the most sacred and venerable institutions of the country—the full effect, and final end of which, no one could foresee.

Such being the general view he had taken of this measure, after a most attentive and dispassionate consideration of it, he should feel it to be his duty to say not-content to the second reading of the bill,

as no amendment in the committee could now reconcile him to the measure in any shape in which it could be offered to the House.

Lord *Redesdale* said, he could not agree with the conclusion drawn by the noble earl from the evidence given in this case. He conceived, that the evidence in support of the Bill was so full and complete, that no doubt could hang upon his, or upon any other man's mind, as to the guilt of the accused party. If such evidence were to be rejected, then, he must say, that no verdict had ever been given, in any court of justice, where a contrariety of evidence appeared, that might not be challenged on the same ground: for, he believed, very few cases could be cited, in which the contrariety of evidence was not greater. He had examined the evidence most accurately, and the impression on his mind was, that this case was more fully proved than any case which he ever remembered, in which any degree of contrariety of evidence was apparent. Where any doubt or mystery hung over evidence, he had been professionally taught to use a test, which was adopted, not only here, but in every place where any thing like a due administration of justice prevailed—namely, where there was any thing doubtful in the evidence, or where it was contradicted, to try those parts on which doubt was thrown, or which were so contradicted, by the test of those facts that were unquestionably proved. When this was done, the truth was sure to be extracted. This mode he had been taught from his earliest knowledge of the profession in which he had so long been engaged; and the adoption of which in another country, where he had been employed in the administration of justice, he found to be indispensably necessary in arriving at a just decision. When he wished to ascertain the truth, he would examine contradictory evidence, in the manner he had stated; but he was convinced, that, if evidence were to be altogether rejected because some parts of it appeared discordant, efficient justice never could be done. Evidence that was contradicted he would try by the test of clear and undisputed facts—and he would then judge on which side the truth of the evidence really lay. Now, in this case, there was an abundance of undisputed facts—such an abundance, as, if duly considered, left no doubt as to the side on which the truth and weight of the evidence rested. The facts stated, with respect to what took place on board the polacre, admitted of no doubt whatsoever; because they were proved by witnesses called in opposition to the bill. When they knew this, then they must conclude that certain evidence given by witnesses in support of the bill on this point was unquestionably true, since it was completely confirmed by witnesses brought against the bill. On which side, then, did the balance of evidence lie? With this impression on his mind, that an important truth, previously stated by evidence in support of the bill, was rendered unquestionable by witnesses who were adverse to the proceeding, was he to be told that there was ground for disbelief? When he found this striking confirmation of evidence, did any thing remain, which could lead him to infer, that even the evidence of Majoochi and Demont, on which so much had been said, ought not to be credited? He protested that he believed them both, because he considered them to be witnesses, with respect to whose evidence there had been sufficient confirmation to induce him to give credit to their statements. He would not give them implicit confidence, but it would be most unjust if he rejected their evidence altogether. On the same principle he would not reject the evidence of Flinn. No; he believed him in certain points. When he spoke of the vessel being under his direction, and of his going to the princess at night, he credited the statement; and what reason had he to doubt it? But, in another part of his evidence, where he chose to say that he looked into the tent —that there was a light in the binnacle sufficient to enable him to see all over it, but that he did not see Bergami—he did not believe his evidence, because there was sufficient reason to support that disbelief. He did not mean to say that the witness spoke that which was absolutely false, but something that was not the whole truth. In the same way he would treat the evidence of others. A great deal had been said about Majoochi. Their lordships would recollect the testimony he had given, and they would not lose sight of the circumstance that it came before them by means of interpretation. The individual who interpreted his evidence was an Italian. It was therefore to be supposed that he was not acquainted with the legal forms made use of in this country; and he believed he was not ac-

curately versed in the idiom of the language spoken in the country from which Majoochi came. In looking to his evidence they ought to make great allowances on these points, as well as for the manner in which many of the questions were put; and several of the questions and answers were taken down by the short-hand writer. If they looked to the evidence in that point of view, they would find many palpable mistakes. But still, taking the whole of the evidence, from beginning to end, he felt that it was, in its most material parts, entitled to confidence; and, before their lordships determined to reject it, some plain and evident grounds should be laid for that proceeding. Majoochi had been cross-examined with great acuteness, until he scarcely knew what he was saying; and on a question being put to him respecting Camera. he answered, "Let me tell the whole story about that." These words were extremely important, because it was manifest that this man felt he had been frequently interrupted while he was giving his evidence. Then, what was the story which he related? He stated a conversation which he had with Camera, which, if true, was unquestionably an attempt, on the part of Camera to bring him again into the service of her royal highness. He attempted to obtain from Majoochi the certificate of character which he had received when he left the service. The offer of re-employment was made; but Majoochi rejected it, and insisted that he should give back to him his certificate. Was this story true, or was it false? If it were false, the fact might have been proved by Camera. He must, therefore, on every rule of evidence hold that this story was true: and, if it were true, why was there any anxiety to bring forward Majoochi, latterly, unless with a view to confuse his evidence. Taking the whole of Majoochi's evidence into consideration, he thought that all those parts of it which were in themselves important were entitled to his belief, and that belief he extended to them. With respect to Demont, he certainly must admit that he did not look upon her as one who had conducted herself with propriety; but was he, therefore, to reject all her evidence? He begged to know what would be the state of society if the testimony of every person whose behaviour was in any degree light or inconsiderate—who on some occasion or other had conducted themselves improperly—was to be utterly rejected on that account? How many witnesses were there in every cause against whom might be urged all that had been objected to Demont? The testimony of that witness was to be tried by itself, and by circumstances sworn to by others; and, if she were not believed, there would be no security for public justice. Looking at what Demont and Majoochi had sworn, had their lordships the slightest doubt, not only that the princess bathed on the voyage, but that she was then attended by Bergami, who had handed her down stairs? A doubt had been thrown upon the fact, from a difference regarding the cabin: it was said, that the cabin where Majoochi said the bath was placed, was not of sufficient capacity to receive it; but, if their lordships attended to the particulars sworn to by Demont, they would conclude that the princess probably bathed in the apartment of the countess Oldi. Whether it was in one cabin or in another was a matter of no consequence, the fact being indisputable, that the princess did take the bath in the presence of Bergami. Gargiulo, as well as Demont and Majoochi, swore to this point; and Demont was afterwards, and not till afterwards, called in to assist the princess in dressing. If the countess Oldi had been present, why had she not disproved it? If Brunette were there, why had she not disproved it? That circumstance alone, in his mind, afforded the strongest proof of the guilt of her majesty; for what woman, who had not surrendered her virtue to a man, would suffer him to be present as her sole attendant while bathing? What had been said by counsel regarding bathing in the Brescia, was just as applicable to any transaction in any other country as to that. The proximity of the apartments of Bergami and the princess was not disputed, and it was impossible to suppose, that the circumstance had occurred in so many instances fortuitously. Plans of the different inns had been taken for the defence, but they had none of them been produced. What ground was there, then, for doubting the testimony of Majoochi and Demont on this point? Unless the House meant to deal quite wildly with evidence—unless they intended to destroy all safety for the future—they could not hesitate to believe it.—Without fatiguing their lordships with further examination of the evidence, he would a make few remarks upon what

had been said against this measure as a Bill of Pains and Penalties. He admitted that such a step ought not to be taken lightly, but he contended that it ought at all times to be in the power of the legislature to take it. What was the Act of Settlement, on which the succession of the crown depended, but a bill of Pains and Penalties? It excluded all but the issue of certain persons, because they professed the Roman Catholic religion. A great number of persons were thus deprived of their rights of inheritance. The second act proceeded on the same ground as the first, only operating more severely, by preventing even those who had renounced the Roman Catholic faith from filling the throne of these kingdoms. Could it be said that a measure was unconstitutional which formed the very foundation of our constitution? The bill excluding the duke of York was of the same kind: it had come three times before parliament: the first time it was destroyed by a dissolution, and it was not finally successful until after three distinct efforts. This was a bill of pains and penalties, yet it was passed by the men who had settled our liberties on the firmest foundation, in 1688. Were the measures they supported unconstitutional? Bills of pains and penalties were sometimes absolutely necessary for the protection of the constitution. When it was urged that they should only be applied in cases of great state-necessity, he would ask where was the great state-necessity for the South-Sea Debt act? It was certainly an important measure; but state-necessity did not render it expedient. Still less would this reason apply to the bill relating to charitable corporations and to that depriving particular persons of the right of voting. They were both measures very proper to be adopted, but called for by no state-necessity. He would ask, what were all divorce bills but bills of pains and penalties? In that respect, were they not precisely similar to the bill now in contemplation? How had the act of adultery been proved in all those numerous cases? Why was a different sort of proof to be here required? Had the proof now insisted upon been then demanded by the House, not one of all those bills could have received the sanction of the legislature. Until now not one hundredth part of the testimony given in this case had been deemed necessary. Grounds had been laid, in this instance, infinitely beyond those thought sufficient to support any ordinary bill of divorce. The power of the ecclesiastical court could only separate the parties from bed and board; it could not dissolve the marriage. Something was, therefore, superadded by parliament, whose decision was not founded upon the determination of the ecclesiastical court excepting as far as related to the evidence of the act of adultery.—He begged the House to consider the consequences of not adopting this measure, or some other of a similar effect. Her majesty might demand her rights. And could there be any doubt that she would demand them? She would have a right to hold a court—was that court to be a court held as other queens have held it, dependent on the king, or was it to be a court held in opposition to the royal authority—was it to be a court at which all the nobility and rank of the country were to visit, or was it to be visited by a different description of persons? She might also require the performance of the ceremony of coronation: she might consider that one of her rights. It seemed to him that, on these grounds, the House was bound to ascertain whether the person claiming these rights was or was not worthy of them—whether, taking it as an office, the Queen had not forfeited her right to that office. The Queen was a public and political character; and so the House ought to view her in connexion with the throne. It being granted, then, that some measure was necessary, it was urged that impeachment was the proper course. First, impeachment must originate with the Commons; and no offence could be the subject of an impeachment that could not also be the subject of an indictment. He did not say, that at no time had this House commenced a proceeding of the kind; because he knew that, in the reign of James 1st, persons had been called to its bar regarding monopolies. Granting that this offence of her majesty might be treated as an indictable misdemeanor, where was the crime to be laid—where could the *venue* be fixed? Abroad? if so, no such indictment could lie by the common law of the land. He contended that the House, in cases of impeachment, was a court of judicature, bound by the forms and modes of proceeding in courts of judicature; and, as one of the authorities on this point, he referred to the trial of Dr. Sacheverell, reading the opinion of one of the chief legal authorities upon that occasion. He

also noticed the various points then urged in arrest of judgment—following it up by the mention of the act for the further improvement of the union with Scotland. He also combatted the opinion contained in the protest lately put in by various lords on the subject of impeachment, arguing that it was founded upon a mistake in point of fact. Supposing, however, it were doubtful whether the proceeding should have been by impeachment or otherwise, was that a reason for not proceeding at all? was not, indeed, the legislative mode the better on all accounts? and was there any thing unfair in thus trying the question? On the contrary had not the party accused a great advantage? A prisoner tried for treason would not have enjoyed half the advantages now allowed. It was true, that a list of witnesses to be called might have been given him some days before he met the jury; but here the whole evidence had been produced in open court, and the Queen's counsel had had an opportunity of seeing and interrogating all the persons who proved the case against their client. It might even be said, that every witness had been upon his trial for three weeks as to his credibility; during that interval the counsel for the Queen had only to employ themselves in collecting evidence against their characters. It ought also to be remembered that some of the witnesses had been brought to the bar a second and a third time for cross-examination. The question then came to this—whether, as a matter of expediency, the bill should be passed? Could any thing be more mischievous, after the House had proceeded thus far, than to abandon it? But it had been let drop, and rather improperly he conceived, as a reason against the present proceeding, that it might not pass in another place. Be it so, but he contended, that its being thrown out in another place would not be a tenth part so mischievous as its being thrown out by their lordships. Much had been said of the discontent which existed in the country. He did not believe that popular clamour was so loud as it was represented to be. But, if such was the case, their lordships were called upon to act with more than ordinary firmness. So far from withdrawing the proceeding, they were bound, if they believed the Queen guilty, to show to the world that they were determined to pass the bill and send it to the other House. The other House would do as they wished with it; but it would be for the public to judge to which House the most credit was due. On these grounds he should vote without hesitation for the second reading of the bill.

The House adjourned.

HOUSE OF LORDS.

Friday, November 3.

The order of the day being read,

Earl *Grosvenor* rose. He said, that having on this important inquiry attended to the evidence that had been given at the bar, as well as to the eloquent speeches of counsel; having also attended to the speeches of noble lords, pronounced yesterday in that House; having thus paid all the attention in his power to this most important case, he had now to declare before God and his country his solemn opinion, that any thing adduced in evidence before them, did not substantiate the cruelly accumulated charges against the Queen. In my conscience (said the noble earl), and as I hope for justice and for mercy at the bar of heaven hereafter, where we must all appear, and where we shall be judged of according to the good or evil we may do on this great occasion, I do believe that these charges have not been proved, and I must, therefore, be under the necessity of saying "Not-content" to this question [Loud cheers!]. He should, he feared, be obliged, in the course of his address, to claim a considerable portion of their lordships' time. They had heard much on the one side of the subject, and yesterday they had heard the able and elaborate speech of the learned lord on the woolsack, as well as the speech of the noble earl (Lauderdale) who had so much distinguished himself by the part which he had taken on this question, and the energy which he had manifested. Whilst on the other hand, the side of the House from whence he addressed them, had to deplore the loss of a powerful ann eloquent advocate (lord Erskine), who had been prevented from following up his speech against the bill; the sudden indisposition of that noble lord was a cause of great regret to them all, but he trusted that his indisposition would be but temporary; he hoped that he would still be able to bring to this question the aid of his powerful talents, and character. It was to be regretted, that, from the abilities which had been employ-

ed in favour of the prosecution—from the eagernesss, zeal, and activity of its supporters—from the number of the charges, infamous and accumulated as they were—from all those circumstances, it was natural, though it was lamentable, that considerable prejudice might even yet be found to press upon the minds of many of those who were shortly to be called on to give their solemn votes. For himself, though he felt strongly and decidedly against the bill, yet, weighed down as he was by the consciousness of his inadequate powers to do justice to the case, he was almost debarred from stating his sentiments to that House. He would, however, venture to recall to the minds of their lordships, the nature of the speech pronounced on this occasion by the noble and learned lord on the woolsack, and which certainly had a powerful influence; that noble and learned lord declared, that he took a calm and unprejudiced view of the question, and that it was the duty of their lordships to do the same. Undoubtedly it was. Sitting, as they did, as judges and as legislators, on a question so important, so anxiously felt by the people, it was their duty to bring to the consideration unprejudiced minds, and pure and upright hearts. But was it not greatly to be deplored, that the noble and learned lord had not always seen so clearly? If no improper prejudice had ever operated on the mind of the noble and learned lord, and those with whom he acted—if the scales of justice had always been held with an even-hand—then would they have unfortunately and unfairly prejudged the question as they did prejudge it, when they advised the King to strike her majesty's name out of the Liturgy? This was deciding on the case of her majesty before trial—this was a proceeding which justice could never sanction, and which the country universally condemned. It had been well observed by a noble friend of his, that before their lordships attempted to pass this bill, they should well consider whether the other House of Parliament would entertain it. He hoped and believed they never would. He agreed with a noble earl, that, generally speaking, it would be derogatory to their dignity, in discussing a great question of state policy, to let a consideration of that sort operate on their minds. As a general principle, he assented to that doctrine; but when their lordships considered the nature of the question before them—when they recollected, that the other House of Parliament, had already decided, that whatever might be the ultimate issue of the question, it would prove derogatory to the dignity of the Crown, and injurious to the best interests of the country; when, in fact, they saw that the House of Commons had tied up their hands by that declaration, how could their lordships suppose that the bill would ever pass that assembly? And moreover, their lordships ought to recollect that the green-bag, a duplicate of which had been laid on the table of their House, was never rummaged or ransacked by the Commons, as it had been by their lordships; but when, on the contrary, it was laid on the table of that House, the Commons paid no regard to it; they appointed no committee to look into its contents, but they indignantly shoved it off their table. These were circumstances which they should well consider, and the more so, as their lordships knew the state of the public feeling on this subject. Never were the generous feelings of the English people roused to so great a height—they made common cause with her majesty, determined to share in her triumph or defeat. Those considerations ought to make wise men pause before they ventured on a measure which might be rejected by the Commons, and which never would be approved by the country. Upon the whole, he thought it a most fortunate circumstance that this trial had taken place; for, after the gross and unfounded calumnies which had been so long in circulation, it was a subject of no small congratulation, that the true character of those calumnies had been completely exposed. It had been distinctly proved, that a great many of the charges were altogether unfounded, and hence a fair inference might be drawn as to those facts which did not admit of so full a contradiction. The learned lord on the woolsack had stated, that it was impossible for any of their lordships to agree to this bill, unless they had decidedly made up their minds that the charges had been proved; and he had also stated, that before they came to vote, if there remained the slightest doubt upon their minds with regard to the guilt of the Queen, that doubt ought to operate in her favour. This was an important admission, and one which, if acted upon conscientiously, must at once decide the fate of this bill.—Before he proceeded to the consideration of the evidence, he begged to offer one or two remarks upon the alteration which it was

suggested might take place in this bill in the committee—an alteration which would have for its object, not to render the bill more penal, but rather to soften down its severity. It appeared to him impossible that the bill, in its present shape, could pass; and it appeared equally impossible that it should pass, if the alteration were to take place; for, in what an extraordinary situation would the country, the Queen, and the King be placed, if the bill were to pass in so anomalous a shape! What was the Queen to be proved guilty of? She had not committed high treason; she had not committed murder, or any thing that was punishable by the law of England; in its ordinary and justifiable administration. It seemed impossible, under the circumstances of this unparalleled case, to convict her of adultery against the King. She might be guilty of fornication, or, if they pleased, adultery against the state; but, what a metaphysical, hypothetical, metaphorical, *double entendre* "state" was that; and if she could be divorced from the state now, could she, with any sense of reason or propriety, be still the wife of the King? What an insult to the King! The learned lord had told them, that in the committee the enacting clauses could be altered, not, undoubtedly, to make them more penal, but to alleviate their rigour. Still, however, the bill could never meet with his support. He considered the learned lord, and the noble earl who took part in the debate yesterday, though the latter did not profess to throw aside the evidence of Majoochi, Demont, Sacchi, and others, had taken nearly the same view of the subject, and had come to the same conclusion. As to the Barona—it had been said by the noble earl, that it had been purchased by her royal highness for Bergami. But he thought the noble earl could not point out that part of the evidence in which this fact was proved. After all, it was of very little importance, as the Barona was nothing more than a little farm. That her majesty entertained a favourable opinion of Bergami, that she felt anxious to promote him—that, as a mistress, she was partial and friendly to him, there could be no doubt. Though she thought well of Bergami, he did not think that it was at all unreasonable to suppose that this might be solely on account of his honest services and approved fidelity. Their lordships had no right to assume the contrary; for he would maintain that in no part of the case was the fact of adultery proved. With respect to the case at Carlsruhe, a complete contradiction had been supplied by unexceptionable witnesses. The story which had been told of what occurred there, was most improbable. He thought it utterly impossible that that which had been described could have taken place. But admitting that the story told of the cloak found there might by possibility be true, when so much was to be inferred against the Queen, was it not fair that some inference should be drawn in her favour? Was it not possible that the Grimms and those persons about the Queen, whose object it was, to destroy her character, might have placed that cloak where it was found, in order to injure her majesty? Their lordships all remembered the play of Othello, and the manner in which the wretch Iago disposed of the handkerchief of Desdemona in such a way that it should fall into the hands of Cassio. Might there not be some Iagos now to be found in the world?—He now came to the promotion of Bergami. A variety of circumstances tended to account for that elevation. Would their lordships consider the situation of her majesty—the attack that had been made upon her life—the circumstances of Ompteda's interference, of his attempts to corrupt her servants, and to procure false keys for her drawers—beset upon as she was, defenceless, exposed to danger, she found in Bergami a faithful servant. Was he so or not? The fact was not denied. Was it then too much to suppose that his merits might have recommended him to the notice of his royal mistress? Was it not possible that, without entertaining any criminal views, she might have raised him from a low situation—that she might have conferred these honours on him, because she found him a faithful, honest, man, deserving of promotion?—In the situation in which her majesty stood, nothing was more fair than to assume so much. The instances were not few where worthy and deserving persons had been raised from low situations to favours and honours; and it almost invariably happened that the family and connexions of such persons were selected to partake of their prosperity. The attorney-general had said, that Bergami after the supposed intrigue with her majesty had commenced, had risen in wealth, in power, in possessions, and pride; and that finally, all the respect with which he had formerly treated her majesty, was no more. Where was

the proof of this? Bergami had always treated her royal highness with the greatest respect, and every one about her. In one instance it had been attempted to contradict this; with what success their lordships were aware.—He now came to the scene on board the polacre. From the open communication with the cabins below, from the hatchway being constantly open, and from all the circumstances connected with the situation of her royal highness at that time, he thought that the last time and place that would have been selected for the purpose of carrying on an adulterous intercourse. It was the less probable that any thing of the kind took place there, as it had been stated by lieut. Hownam, that there was no mystery at all connected with the arrangements of the tent. Taking, therefore, the whole of these circumstances together, he could most conscientiously affirm it to be his opinion, that the charges against the Queen were not substantiated. The only witnesses of any respectability brought forward in favour of the bill, led him to the same conclusion. Speaking of the rest of those witnesses, he should say that such a set of witnesses he had never seen; whereas, he never saw a more respectable body of witnesses, generally speaking, than those who were adduced on the Queen's defence. Their manner and the candour of their answers formed a complete contrast to those who had been brought on the other side. Captain Briggs and captain Pechell were almost the only witnesses of respectability adduced by the counsel for the bill, and their testimony was negatively in favour of the Queen. Did they hear of any suspicions that attached to the Queen while she was aboard the Clorinde? If they looked to captain Briggs's testimony, they would see it was impossible that any adulterous intercourse could have taken place. Yet, when the Queen knew this, she gave the direction for Bergami's cabin to be near her own. Her doing this at the time when she must have known the utter impossibility of an adulterous intercourse, was a strong proof that it was not done either then or at any other time from improper motives.—He now came to remark on a circumstance, which he should be surprised if it did not strike their lordships. Demont came hither with all the disposition, as far as *double entendre* went, at least, to say all that would bear against the honour, and perhaps the life, of her royal mistress. She was examined most particularly as to this point; and did it not strike their lordships as astonishing, that, in spite of this pretended long continuance of the adulterous intercourse, she could not prove one single fact of adultery? Whenever the counsel for the Crown pressed her on this point, though she had been constantly about her path and her bed, and had spread out all her ways, they were always manifestly disappointed by her answers. As to the indecencies which were said to have taken place on the deck of the polacre, in the presence of Gargiulo and Paturzo, it was not possible to conceive that they could have taken place without the knowledge of lieutenants Hownam and Flinn and others, who positively denied their having witnessed any thing like them. Now, as to the persons who swore as to those indecencies, in addition to the remuneration for their attendance, which was undoubtedly extraordinary, there was the indefinite expectation held out to Gargiulo, as to his outstanding claim for an indefinite remuneration. About Paturzo there was a singular abruptness and pertness, which did not speak in favour of his testimony. Much stress was laid upon what had been said by Paturzo, as to Bergami lying on a bed or sofa, and the princess standing near him. Undoubtedly when people were determined to suspect, there was no end to suspicions. The evidence here relied upon, reminded him of a person who had been jealous of his wife; and why? because after she had been in a room with a gentleman, at a certain time, he found two chairs together, and therefore concluded that a criminal intercourse must have taken place.—In adverting to the circumstances which had led the House into this inquiry, he said, he had heard it rumoured (and such rumours were always indecorous), that his majesty and not the ministers had urged the omission of the Queen's name in the Liturgy. Whether this was true or not, he knew not (for those rumours were but too often spread by the partizans of ministers to save them from reproach, at the expense of their master); this, however, he would say, that if in the situation of the archbishop of Canterbury, who must in this first instance, be made responsible to the country for the omission, he had been so desired to act, he would have thrown the book in the king's face before he would

have consented to give his sanction to an act so contrary to law, to humanity, and justice. The noble lords opposite should have trampled the seals of office under foot before they should have given their consent to the bringing this measure before parliament. But a household administration they began, and a household administration they would end. He knew not what the end of these wretched proceedings would be, but they could only serve to disgust the country. He was not superstitious, but he should almost say, that there were signs observable in the natural as well as the moral world. He did not blame the attorney-general for the charges which he had brought forward; he was instructed to do so, but there was, no doubt, a mass of foul and unsupported charges brought by him against the Queen. They must remember, that those charges against the Queen, were ushered in by thick clouds and storms, and concluded in the darkness of an eclipse; whereas, the able Defence commenced under the influence of the brightest sun which shed its beams on the eloquent pleader. So it was in the moral and political world; clouds were now gathering that seemed big with thunder.

> "Good things of day begin to droop and drowze,
> "And night's black agents to their work do rouse."

The sound part of the country began to droop under the malignant influence of these proceedings, and those "black agents," whoever they were, that delighted in the misfortunes of their country, would now show themselves. What could put an end to this? A breath had created, and a breath might destroy the bill. It was impossible to anticipate the joy which the destruction of the bill would diffuse throughout the country, nor would it be confined to this country alone: the satisfaction would be extended to France—the note of joy would be prolonged beyond the Pyrennees, to Spain and Portugal, and Sicily. Why to those countries in particular? Because they were free. If there were any countries that would feel for the fate of the bill, they were only Russia and Germany. Would it be lamented by the House, that, while despotic courts hung their heads, the free-born of all nations would rejoice at the rejection of the bill? They were daily praying heaven in that House, that they might be "not led by private interest, prejudices, and partial affections." This was their prayer every morning; and why?—but that nature was frail, and that the heart "was deceitful above all things, and desperately wicked." He prayed them to put aside considerations of interest; and he would conjure them almost on his knees, to deal in the case of this unfortunate and persecuted woman, and, he would add, this magnanimous, and liberal-minded person—they would do as they would wish to be done to themselves, to their wives, and their dearest daughters, under the circumstances of so dreadful a prosecution.

The Earl of *Harewood* said, it was not his intention to trouble their lordships by going at all into the mass of evidence which had been brought under their consideration. The situation in which he felt himself placed, was that of a member of the House of Peers, acting in the double capacity of a legislator and a judge. Considering himself as placed in that situation, he begged, before he gave his vote, to have the grounds on which he formed that vote distinctly understood. He would shortly state the impression made upon his mind by the evidence. Of that evidence he would say, that much of it had been contradicted; much stood on loose grounds; but other parts, he was sorry to say, stood on a firmer foundation. The effect of the whole was calculated to create a strong suspicion respecting the subject of their inquiry; but having stated that, he felt it necessary to consider the nature of the evidence. Far from him was the intention of adopting the prejudice out of doors, that because a person was a foreigner, he ought not to be believed on his oath. Such a prejudice was unworthy of any civilized country. But, when they found an extraordinary case built upon foreign evidence, and that obtained in an unusual manner, a certain degree of doubt was created; and the more so, because many parts of the depositions of the witnesses, he had reason to know, were not brought into the view of the House. If evidence was given on the trial of a person for events in England, they could have any doubts that had arisen cleared up in four and twenty hours. But respecting foreign evidence, a certain degree of doubt must arise in the mind. He went no further than this. He had no right to charge any witness with falsehood, unless it were proved upon him at

the bar. He wished he was as clear as to the perfect innocence of the Queen, as he was as to the impolicy of passing this bill. The bill was now composed of two parts, a clause of divorce and a clause of degradation; and it was understood that the first was not to be pressed. But as a legislator, he was now bound to consider the effect of the bill. He regretted both the cause of the bill, and that it should have been brought before them at all, particularly in its present shape. He conceived that if any thing in the shape of the bill passed, it would cause the greatest discontent among the people. He was persuaded, that whatever the feeling was at present, the good sense of the country was such that it would appreciate the character of every individual in public life in the way it deserved. That would have been the case as to the Queen, if these proceedings had never commenced; and, if any thing could prevent the good sense of the country from being exercised, it would be a measure which held up the illustrious individual as a persecuted woman. There was now a vast mass of evidence before them, and it had been sent through the country. Let the country judge of that evidence, and he would take upon himself to say that its judgment would be correct. He never saw it fail in the course of the experience of his life. He did not think that it was wrong for the ministers to have taken some steps on the information which had been laid before them. At least, he he thought, that whichever way they determined to act, there were so many difficulties that they might be excused for erring if they had committed an error. He thought this allowance was to be made for them, and if there had been a different set of men in the administration, he hoped he should have had the liberality to do them the same justice. When he stated that he should vote against the bill, he trusted it would be understood that he did not do so from the alarm or the agitation of the moment. He had lived in times of agitation, and he had lived to see agitations subside. He therefore was not disposed to feel unusual alarm at that agitation; but he voted against the bill, on the conviction that the just feeling of the country would be better evinced, by leaving it free to operate, without the irritation which would be excited by passing such a bill as this.

The Earl of *Donoughmore* said, that before he proceeded to state his opinion upon the question under their consideration, he could not abstain from noticing some observations which had just fallen from the noble earl. What was the practical conclusion to which the noble earl proposed to bring the House? If the illustrious person was not innocent in the noble earl's opinion, why did he not state what measure he would recommend in lieu of this bill? Were their lordships to relinquish at once their deliberate voice upon so grave a subject, to what the noble earl was pleased to call the judgment of the public; but which might be more aptly denominated, that state of popular violence and irritation, which prevailed at the present moment? To such a spirit of intemperance he was not, for one, prepared to submit. For the opinions of the English people he felt the greatest possible respect; but he had at that moment a duty to perform, which he was not prepared to sacrifice to the cry which had been so industriously excited from without. And surely, if the noble earl continued to think this a case of strong suspicion, there was no other course so proper to take, as that of reading the bill a second time, with an intention of going into a committee.—He would have been happy to have followed the other noble earl (Grosvenor) through his argument, if he had not been somewhat apprehensive of the long journey through which it would have become necessary for him to have accompanied the noble earl. Not satisfied with having pursued his course from one extremity to the other of this our terrestrial world, from pole to pole; the noble earl had taken a trip to the celestial regions; he had visited the Sun and the Moon, and had ended in an eclipse [a laugh!]. But when, upon his return from those distant parts, the noble earl appeared to have lost his temper, when he had proceeded to trample the great seal under his feet, and had appointed the lord archbishop of Canterbury his deputy to throw the Liturgy in his majesty's face, lord D. was apprehensive of meddling at all with the noble earl and his argument.—Before he proceeded to state his reasons why he should give his vote for the bill, he should not go into an examination of the whole mass of evidence; but he thought it right to mention, what part of it he put entirely out of his consideration. He did not call to his aid the testimony of Majoochi, nor

the woman Demont—he said nothing of the evidence of Sacchi, nor the execrable witness Cuchi—nor would he rest on Barbara Kress, both on account of the manner in which she was brought to give her evidence, and from the manner in which a witness who had been called to contradict her had been subtracted. He would not presume to give an opinion on the rest of the evidence; but he would state only the facts which influenced his judgment. There was the less left for him to say, on account of the very able speech of his noble friend on the cross bench (lord Lauderdale). He fully concurred with his noble friend in his opinion with respect to the elevation of Bergami from a menial situation, the promotion of so many of his family, and his ascent from that low situation to be the companion of his mistress. Looking to that circumstance, to the familiarities which followed, to the fact of her royal highness not only conferring an order on him herself, but procuring other orders and titles for him, and purchasing an estate for his use, he could only draw one conclusion. There were, besides these, some intermediate circumstances, certain little familiarities which were not before noticed, such as putting a chain round Bergami's neck, while yet in his courier's dress, and giving him her portrait. These were not important circumstances in themselves; but, when taken in connexion with the rest of her royal highness's conduct, they co-operated to show what sort of familiarity it was which subsisted between her and this man. Putting all the other circumstances out of the case, he thought that sufficient was proved, with respect to her royal highness sleeping under the tent in the polacre, to establish the fact of adulterous intercourse; but, when this fact was added to all the previous circumstances, he thought it could leave no doubt on the minds of any of their lordships. Here they found, by the evidence, that this man and his mistress were under the tent all the nights and the most of every day for five weeks. This he thought, if no adulterous connexion existed before, when taken with the previous familiarities, could not leave a shadow of doubt on the minds of any of their lordships. He could not, indeed, conceive how any noble lord, after these five weeks of cohabitation (for such he must call it) could have a doubt that an adulterous intercourse then had taken place.—The noble lord then adverted to the evidence of Gargiulo and Paturzo, several extracts from which he read, to show the kind of familiarity which existed between her royal highness and Bergami. It had been said, that a ship like the polacre was not a situation in which her royal highness would have chosen to carry on an adulterous intercourse, if she had been so inclined. Now, he contended, that such a situation was one where she could have carried on that intercourse in greater security. She had hired the ship; it was solely for her use, and all the persons in it were, for the time, her servants, from whom she could not expect interruption. Indeed, this seemed to be the opinion of those on board; for Gargiulo sent his mate and others away from that part of the vessel where her royal highness was, that they might not observe her conduct. —One observation more with respect to this tent. Their lordships knew that many cases of adultery depended upon a single fact; but how different was the present? Here the parties were together for six months. He did not mean to charge the adulterous intercourse for the whole of this time; but from all the circumstances, it must be inferred, that it had been carried on for some time, and that it was not curiosity alone which had induced her royal highness to undertake the voyage. He next referred to the evidence of Gargiulo, where he spoke of receiving orders as to the closing of the tent in the day-time, when Bergami was lying on his back on the small bed, and also to having seen Bergami come out of it in about a quarter of an hour after. Now, there were Schiavini and others present on this occasion; and yet, though those persons might have been called to disprove the fact, not one of them appeared. It was also proved by Gargiulo, that on a particular occasion, when he saw her royal highness stooping over the bed of Bergami, he sent the mate, Paturzo, away from the place, and divided the others of the crew in different directions, that they also might not observe what was passing. Did not those circumstances prove, that her royal highness had selected the polacre as a place where she was sure not to be liable to interruption?—His lordship next called the attention of the House to the evidence of Birollo, which corroborated the evidence of Gargiulo and Paturzo. He contended, that, to the evidence of these men there was no other ob-

jection than that of the amount of the compensation they were to receive for coming here. But he maintained, that they were not paid more than the circumstances of their situation required, and that the amount of what they received afforded no contradiction to their testimony. —Their lordships, then, had the witnesses in support of the bill; but, had they no witness who spoke to sleeping under the tent on the other side? There was the declaration of lieut. Hownam of his belief that Bergami slept under the tent. Now, with respect to Hownam, he never saw any witness more reluctant in giving his testimony. He admitted that he was under great obligations to her royal highness. He knew the value of the point to which he was asked; and, in proportion to his knowledge of its value, was his reluctance in admitting it. The fact was, however, admitted by him; and, looking to his evidence, in conjunction with what was previously sworn, it was impossible to doubt that an adulterous intercourse had taken place. Here was clearly proved a long process of adulterous intercourse; the parties sleeping under the same tent for five weeks; the tent closed, and no one attempting to disturb those within. Who, he asked, could doubt that, when it was so closed, it was not for a criminal purpose? No doubt being on his mind of her majesty's guilt, he should vote for the bill. He could not help saying, that if his majesty's ministers had not brought this case under the consideration of parliament, they would have incurred a most serio is responsibility. Upon the conduct of the case, on the part of the Queen's counsel, he could not forbear from making a few comments. Through that conduct their lordships had been for about three or four days engaged in trying the Milan commission. Upon the subject of that commission he did not mean to express an opinion; but he felt it right to suppose, that any public body had done its duty until some effectual charge were made out against them. A good deal of animadversion had been indulged in with respect to the origin of this prosecution, and it had repeatedly been asked, who was the prosecutor? But, in reply to that question, he would return this plain answer, that in the present, as well as in all other cases of delinquency, the government was the prosecutor. He agreed with those who said that the public mind was much agitated upon this subject; but he was of opinion that it would soon be pacified. Their lordships had been told, that the public had already decided upon this question; but notwithstanding his disposition to defer to public opinion, he must say, that he could not yield to the decision of those who had pronounced their verdict before the case was tried; for, from the moment of the Queen's arrival in this country, addresses had been sent to her majesty, containing the most confident assertion of her innocence, with the most severe reprobation of her accusers. But their lordships had been told by the counsel for the Queen, that such was the fervour of the public feeling upon this subject, that if they pronounced a judgment against his client, it should be the last judgment they ever pronounced. Such a threat was, however, so ridiculous, that he hardly thought it would have been addressed to any reasonable persons. At what period but the present, was a regular philippic against the King ever pronounced and tolerated, at the bar of his court of parliament? But here a comparison had been instituted, and a parallel drawn by the learned counsel, between our present gracious sovereign, and Nero, the most execrable tyrant of antiquity. Was libel, the most gross and pointed, ever recognised on any former occasion, as a legitimate means of defence, in the hands of an advocate? Turning with disgust from the picture which the learned gentleman had presented to them, it was to the unexampled triumphs of his majesty's reign that the eyes of a grateful people would be directed. In him, they would recognise the head, and main spring of that powerful confederacy which had put usurpation down, and restored legitimate succession, and given peace to Europe. That great machine, the British army, had grown to maturity since his majesty had taken into his hands the helm of the state—under the assiduous care of his majesty's royal brother, and led on to triumphs unexampled in the annals of British warfare, by the gallant and distinguiseed duke in the blue ribband.

Earl *Grey* said:—My lords, it is with the utmost regret that I find myself compelled to differ upon this occasion from my noble friend who has just sat down, as well as from my noble friend on the cross-bench. I have been anxious to hear my noble friends, as well as other noble lords on the same side, before I rose to address you, because I know that their sentiments must have

great weight with your lordships, and also because I felt it desirable to ascertain those sentiments for the information of my own judgment. If the question before your lordships were not of such extraordinary importance, I should have felt reluctant, for various reasons, to offer myself to your attention. But I have an imperative duty to discharge, and I shall now proceed to state the grounds upon which I think myself called upon to vote against the second reading of this bill. In the first place, without meaning any incivility to my noble friend who has just addressed you, I beg leave to dismiss the topics with which he concluded his address to your lordships. I must say, that if any thing had fallen from the counsel at the bar, to whom my noble friend referred, which was unfit for them to use or for you to hear—if they made use of any inflammatory or unbecoming language—or if they referred to any topics inconsistent with the loyalty which they owe to their sovereign, or with the respect that is due to this House—if they trespassed on the bounds of their duty to your lordships and the country, they should not have been allowed, for a moment, to proceed in such a course. My noble friend has represented that which I apprehend others are not likely so to represent, which others indeed, did not so understand. But it is not for me to defend the conduct of counsel at the bar, who should, if irregular, have been immediately called to order. But there was another topic in my noble friend's speech to which I think it proper to advert. He complained of the learned lord on the woolsack, observing that the learned lord had disappointed him in not taking that large, luminous and comprehensive view of the evidence, for the instruction and guidance of the judgment of the House, which undoubtedly no man was more competent to take than that learned lord. Few, perhaps, would be more eager than himself to hear what the learned lord had to say upon the subject. But my noble friend is mistaken in supposing that such a duty as that which he describes was imposed upon the learned lord on this occasion, for it belongs to him only to state his own opinion upon the case, with the grounds of that opinion, if he think proper, as he is not here as a presiding judge called upon to address a jury. He is here only as a peer among peers, and as a juror among jurors. As a judge, too, in this case, he is called upon to defend his own opinions, if necessary; but he is by no means required to perform that duty of summing up for the guidance of a jury, which belongs to a judge in any of the courts below. Thus much I have thought it necessary to state in justification of the conduct of the learned lord on the woolsack.

I shall now, my lords, proceed to consider the question before you, with all the calmness, judgment, and impartiality in my power. That question is, whether the charges preferred in this case are so made out by the evidence, as to justify the infliction of the severe penalties proposed in the bill upon the highest subject in the realm, and that question, I assure your lordships, I approach with the greatest anxiety and distress of mind. At the outset of these proceedings I stated pretty fully my objections to the justice and policy of bills of this description. But I did not go the length of some of my noble friends in maintaining that there was no possible case in which a bill of Pains and Penalties, or a bill of Attainder could be justifiable. No, my lords, I have read the history of the constitution with different impressions, and I agree with the learned lord on the woolsack, that in the best times since the Revolution, precedents may be found for the adoption of such measures, as well as that cases may exist which may render their adoption necessary. But then such bills are only to be regarded as the indispensable exercise of parliamentary power for the protection of the people. Such bills are indeed so objectionable in principle, and so inconsistent with the spirit of the constitution, that nothing but the safety of the state, nothing but a great public exigency, nothing short of paramount necessity could call for their adoption. Can any man maintain that the present is a case of that necessity, or that a bill of Pains and Penalties should be founded upon such a case, especially while another course lay open—I mean that of Impeachment? That this course would have been more constitutional and just in the present case, I have already endeavoured to show. I have, indeed, fully expressed my opinion upon the subject, and I have recorded that opinion in a protest upon your lordships' Journals. I will not, therefore, re-state my arguments on the present occasion, but I cannot forbear shortly noticing the observations of the learned lord

(Redesdale) which I must confess I heard with considerable surprise ; for that learned lord ought to be good authority upon such a subject. And yet he, who was seven years in parliament during the trial of Warren Hastings, seriously maintained that no impeachment could be preferred for any offence but where a venue could be laid for an indictment. The learned lord, indeed, laboured strongly to establish that position. But I differ totally from the learned lord, being of opinion, that impeachment is peculiarly meant to meet those extraordinary cases of public delinquency which are not provided for by the established law of the land, and which are not therefore cognizable in the courts below—I mean those state misdemeanors or crimes which can properly and constitutionally be met by impeachment alone. But the learned lord on the woolsack has urged that argument in this discussion which has been so refuted; namely, that a bill of Pains and Penalties affords more advantage to the accused than an impeachment. That is a proposition to which I never can assent. The learned lord indeed, in pressing it, seems to be as ignorant of what is passing about him, as the learned lord on the cross-bench showed himself in stating, that the public were utterly indifferent about this measure ; or who can doubt, that, if an impeachment had been the course originally proposed in the House of Commons, there might, or probably would have been a very different result ? The House had indeed heard something tantamount to an admission upon this subject, from the noble earl who introduced this bill ; for, upon a proposal being made at my suggestion, that instead of proceeding by a bill of Pains and Penalties, the case should be left open to impeachment, what did that noble earl state ? Why, that it was important, and necessary to decide for the bill, as a decision against it might prove equivalent to a declaration that there should be no proceeding at all. What, then, was the inference ? Why, that the noble earl apprehended, that from the situation and temper of the Commons, if the bill were not adopted, this House would never be called upon to come to any decision on the subject. It is evident, therefore, that whatever might be the advantage to the accused in other cases, in proceeding by a bill of Pains and Penalties rather than by impeachment, it cannot be pretended that any such advantage was at all likely to exist in the present case. But I doubt whether such an advantage exists in any case. A proceeding of the description before the House, might be more favourable to guilt in affording it an additional chance of escape ; but I am very doubtful whether it could be in any degree more favourable to innocence in affording it any additional protection. I am convinced indeed, that no such advantage or favour exists in the present case. For what may be the effect of the proceeding before your lordships with respect to the accused ? This House may decide in favour of the bill upon mere doubtful points, and then the accused is sent to a second trial, and additional evidence may be adduced, which her own defence here may have opened to her accusers, and the whole process of the investigation may be gone into over again before another court. Now, considering that the charges refer to a state offence, and that all the influence of government is used in this prosecution, I appeal to the candour of any man who hears me, whether such a mode of proceeding must not be regarded as most materially disadvantageous to the accused ? Your lordships are besides, by this course of proceeding, submitting your judgment to the House of Commons. To that, however, the learned lord has replied by stating the practice in all bills of divorce which originate in this House. But, upon what ground could private divorce bills be assimilated to the present case, which was a charge preferred by the state, and in which all the interests, the passions, and the prejudices of the government are deeply involved ? But among the anomalies of the proposed proceeding, it will be recollected, that while we possess the right of examining witnesses upon oath, and enjoy the assistance of the learned Judges, this bill, if agreed to by your lordships, will be sent to the House of Commons, as a court of appeal, which possesses no such right of administering oaths, and which cannot enjoy the assistance of the Judges. This bill, you must also remember, will, if sent to the Commons, encounter the risk of rejection ; and in such an extraordinary case, what can be more pregnant with danger, than a dissention between the two Houses of Parliament ? In the present state of the country, the consequences of such a dissention may be frightful.

But, I will not dwell further upon this

topic, I thought it my duty to deprecate the introduction of this bill at all. But, as your lordships thought proper to come to a contrary determination, I made up my mind to decide upon this bill according to the evidence. I felt, that if the charges against the Queen were made out by the evidence, I had no alternative but to vote for this bill, or to allow her to occupy the throne with a character so tainted and stigmatised by the establishment of such charges, as must serve to degrade the dignity of the Crown, and the honour of the country. I was, however, determined not to decide against the Queen unless such a case were made out against her as must render it impossible for her to retain her station with dishonour to the state. I cannot, perhaps, describe such a case better than in the words of the preamble to the bill, to which my learned friend (lord Erskine) was referring yesterday, when he was interrupted in such a manner as must afflict every individual who witnessed the melancholy scene when he was interrupted in the performance of a duty upon this question, which was so admirably consistent with the principles which have actuated the whole tenor of his glorious life.

It is stated, my lords, in the preamble to the bill, that her royal highness "whilst the said Bartolomeo Bergami was in her said service, conducted herself towards the said Bergami, and in other respects, both in public and private, with indecent and offensive familiarity and freedom, and carried on a licentious, disgraceful, and adulterous intercourse with the said Bergami, which continued for a long period of time, during her royal highness's residence abroad; by which conduct, great scandal and dishonour have been brought upon your majesty's family and this kingdom." Such, my lords, is the case which I required to have made out before I could satisfy my mind as to the propriety of voting for that degradation of the Queen which the present bill has in view; for I could not reconcile it to my judgment to vote for this bill if a case were made out of simple adultery. And that case must be made out by the most clear, unequivocal, and irresistible evidence; for I felt, that in proportion as the rank of the accused was exalted, in proportion as the penalties to be inflicted were severe, in proportion as the proceeding itself was unusual, and as it departed from all the principles of law and justice, the charges against her should be made out of the most satisfactory and most conclusive proof. I say that no inference, however strong; no suspicion, however forcible; no presumption, however striking; no testimony, however connected, ought to be held conclusive, when coming from witnesses of doubtful and suspected character. I say further, that not even the strongest moral conviction of guilt, nothing short of the most clear, indisputable, incontrovertible facts, will justify a vote against the illustrious lady now accused at your bar.

Why then I shall proceed to investigate this case as it is now admitted to stand by those who are its warmest advocates and supporters. I do so, however, with a considerable degree of surprise, at finding that I should be called on to argue such a case upon such an occasion, and with a view before me of the consequences which it is likely to produce. But before I enter upon this part of the case, I shall take leave to ask one question. I ask, then, whether, if on the conclusion of the attorney-general's opening speech, it could have been foreseen that the disgraceful scene at Naples; the disgraceful proceedings at Genoa; the circumstances stated to have taken place at the house of general Pino, the proceedings at Trieste; if it could have been foreseen that the scenes at Carlsruhe, the scenes described to have taken place at Scharnitz, the many other filthy and beastial acts which have been described; acts, the very mention of which has endangered the morals and revolted the feelings of the country; if, I say, it could, at the conclusion of the attorney-general's speech, have been foreseen that the whole of this evidence was to be abandoned by those who supported the bill; and if it could have been imagined, in addition to all this, that the whole case in support of the bill was to rest on the simple fact of the polacre, then, I ask the noble earl opposite, whether he would either have laid the papers on your lordships table, or have instituted the present proceeding? I am sure that no man who knows the nature of the investigation which has been gone into within the last forty-five days of the inquiry, will pretend to say that the charge against the Queen was to be rested upon the single case of the polacre. My lords, it is the solitary case upon which we are now called upon to vote in

support of this bill. I know that there are other views and circumstances in this case, which are looked to by some of my noble friends on the other side. They seem to reject a great part of the testimony individually, yet they are determined to take it in the aggregate as a make-weight, in order to assist the other facts of the case. Now, my lords, my noble friend (Lauderdale), to whom I mean more particularly to apply myself (because he has made the most powerful and impressive speech), has complained, and with justice, of having been assailed with clamour. I know that such clamour does exist—I lament that it does—but to such clamour I am no party. I trust my noble friend will do me the justice to believe that a knowledge of his character, derived from 36 years acquaintance, cannot be altered by the circumstance of my having the misfortune to differ with him on this case. I give to my noble friend that latitude which I claim for myself—that of acting according to the feelings of my conscience on the question before me. I know that my noble friend carries with him into every question which he espouses a warmth and earnestness which may perhaps be liable to misconstruction by those who do not know him so well as I do. I give my noble friend every credit for using his best efforts to elicit truth, and attain the ends of justice. But, while I do this justice to my noble friend, I am bound on the present occasion to differ widely and materially from him.

My noble friend began by looking to the original situation of Bergami, and entered into details and deductions from the circumstance of his advancement and the advancement of his family by her majesty. What he has stated with respect to the advancement of Bergami I am most ready to admit. I admit that Bergami originally filled the situation of courier to her royal highness; though at the same time from the evidence, it appears, that his family had enjoyed better fortunes. This fact has been confirmed by what has hitherto been uncontradicted, namely, that Bergami's sister, the countess Oldi, was married to an Italian nobleman. It has been admitted too, that Bergami, though filling the situation of courier, was a man of manners superior to his situation, and that when exalted to a higher office, he did not appear unworthy of his preferment. I admit, that this sudden exaltation of Bergami, coupled with other circumstances, was of a suspicious nature; but in making this admission, I must vindicate the noble earl (Harewood) from the interpretation given to his speech by my noble friend who spoke last. The noble earl, if I rightly understood him, meant to say, as I have said, that the circumstance of elevating Bergami and his family was of a very suspicious nature; but that though this was of a suspicious nature, still it was not sufficient ground upon which to vote in support of the bill. My lords, I have said that the circumstances attending Bergami's elevation are suspicious; I lament that they are so—I lament her majesty's inattention to the dignity belonging to her high rank and station; but admitting this, I can go no further; there may have been impropriety amounting to suspicion in her majesty's conduct—will that impropriety, will that suspicion stand as proof of guilt? Will such improprieties and such suspicions warrant your lordships in passing a bill like this? But, my lords, admitting this impropriety of conduct, are there no circumstances connected with the then situation of the Queen calculated to mitigate those charges? It may appear paradoxical; but I think that the elevation of such a man as Bergami by the Queen is much less suspicious than the elevation of a man similarly situated, by a lady of less exalted rank. When we recollect that sovereigns are so much exalted above the generality of men—when we see that like persons looking down from lofty mountains, the just proportions of those beneath them are lost and confounded—need we be astonished at any selection which they make? Sovereigns lay claim to the right, as they possess the power, of raising whom they please, however low, to the highest rank and the greatest dignities. I agree with the learned lord on the woolsack, that the circumstance of raising such a person as Bergami to rank and dignity, is very different from that noble elevation to which it is the pride and boast of England to raise men, who have laboriously and honourably toiled in the service of their country. But, my lords, you will find that history, ancient as well as modern, is pregnant with examples of persons having been raised from the lowest to the highest situation, from the mere will and caprice of the sovereign; and it is seldom found in such

cases that the family do not partake in the exaltation. Then, I say, that this circumstance, suspicious as it is, ought to be looked at with considerable qualification. Sneperadded to this ought to be considered where the Queen was, and how she was situated when Bergami's preferment took place. Her majesty was then in Italy, a country surrounded by wars, which had shaken society to its base; she was in the daily habit of seeing around her persons who had been raised during that period, from the lowest to the most exalted situations; at the court where she was, she saw that the sovereign (Murat) had been raised from the lowest class of society; she saw too, that a power, with which we are now on terms of alliance, had been exalted from the most obscure origin. Why then, allowing the suspicion attending Bergami's promotion; still, I say, that it is only suspicion. It cannot stand in the place of actual proof; and by actual proof alone can this bill be supported.

Again, my lords, this being so, how stands the case? The Queen is charged with adultery with Bergami, the person whom she has exalted. In order to fix upon her this disgraceful charge, a variety of evidence has been brought forward, some of it of such a nature, that if established by credible witnesses, the case would be proved beyond a doubt. If you can believe the evidence of Majoochi, that the Queen passed twice through his room, in order to get to that of Bergami—if you can believe the evidence of Demont, that Bergami had, at the house of general Pino, passed into the Queen's room, and passed the greater part of the night there; if you can believe that she saw at Catania the Queen pass undressed from Bergami's room to her own in the morning—if you can believe Sacchi's statements of what took place at the Villa Brandi; if your lordships can believe all this, then, I say, there is an end of the case; the facts are decidedly proved, and no opposition can be made to the bill. But, my lords, how does the case stand? All those facts are, according to the noble lords who support the bill (except, indeed, the learned lord on the woolsack, who sticks to the case at Catania), to be discarded from your notice. Why was this done, except it was found that the witnesses were not to be credited? But, says my noble friend on the cross-bench, though I admit that there have been some contradictions to Majoochi, yet I am not prepared to say, that he has not spoken a good deal of truth. Why, my lords, my first answer to this is, that there is no witness, however designedly false and perjured, who may not, in the course of his evidence, speak a great deal of truth upon some occasions; but I say that I cannot even believe the truth from such a witness, unless he be supported by unimpeached testimony. Another noble friend of mine has said, that though the evidence for the bill was such that he could not rely upon any separate testimony, yet he thought the evidence of Majoochi or Demont was not materially damaged. Sacchi, I believe, my noble friend did not attempt to defend. My noble friend, though he could not rely on any separate part of the evidence, is of opinion, that, taken in the aggregate, it formed such a mass of evidence, as, coupled with the polacre scene, must enable any man to pronounce judgment against the Queen. I ask, if this be sound doctrine? I ask if it be ground upon which an ordinary court of justice would go in any case? Where is there an instance where witnesses, so damaged, as to be separately not intitled to credit, have been clubbed together, and by this consolidation a conclusion has been come to against an accused party? Sir Wm. Scott, in the case of Evans *v.* Evans, said—"Show me in this case that a crime has been committed, and I shall not be at a loss to fix the criminal, having then an actual *corpus delicti*. Show me then, that a crime has been committed, and I shall not be at a loss to fix the criminal; but to take presumptions, in order to swell an equivocal fact, into a criminal fact, is a mode of proceeding of a very different nature, and would be an entire misapplication of the doctrine of presumptions. This fact, then, not being a criminal one upon the face of it, and being subject to three or four different interpretations, all of which are perfectly innocent, I think myself by no means at liberty to say, that I ought, by presumption merely, to make out this fact to be necessarily an act of delinquency." This, my lords, is the true light in which facts of this nature ought to be viewed.

I now come to the evidence on this case. My noble friend on the cross-bench had laid considerable stress on parts of the evidence, though supported by the testimony of Demont alone, and on the

ground that there were several persons who might have been, but who were not, called to disprove the facts, if false. My noble friend, from this circumstance, assumed, that all the uncontradicted statements were true. I agree with the learned lord on the woolsack, with respect to the absence of witnesses, but I think that that doctrine may be carried too far; indeed, I am of opinion, that it has been carried too far in the case before us. It is rather too hard to call on the accused party to disprove statements made by witnesses, upon whose evidence no reliance can be placed, because such witnesses have sworn to facts which might be contradicted; and in default of such contradiction, to take the facts sworn to as established. In one instance the facts stated by Demont could not be contradicted. The facts stated by Demont to have occurred at Catania, could, it is said, be contradicted by Mariette Bron. But did Demont say positively that Mariette was present on that occasion? No; she only said, that she believed Mariette was present when she saw her royal highness come out of Bergami's room with the pillow under her arm. What, then, would have been the use of calling Mariette? She might say that she was quite positive she did not witness the scene described by her sister, but this, it would be urged, was no contradiction. The counsel for the bill would have said, "You have tried to contradict us as far as you can; but Mariette's testimony is uncontradicted, you must call the countess Oldi." How would the case stand with respect to the countess Oldi? She might have sworn that the Queen was in her room during the greater part of the night; but she might have been cross-examined as to this particular night, to which she would find it difficult to answer. It would have been urged, that the Queen might have stolen from her room in the night, or else that the countess Oldi was placed there in order to forward the intrigue, and therefore her testimony was good for nothing. The counsel for the defence have abstained, and I think properly, from calling certain witnesses who were within their reach. Your lordships will find this to have been done for weighty reasons. The learned lord on the woolsack has said, that your lordships have nothing to do with the irritability of nerves of the witnesses. Your lordships must be aware that Mariette, and the countess Oldi had been all through Italy with her majesty. If either of these witnesses had been called to contradict Demont, it would have been open to the other side to cross-examine them as to the whole case, as to declarations formerly made, and God knows what; and if in such cross-examination, the witness had been caught tripping, even in a single instance, then the lynx-eye of my noble friend on the cross-bench would have seized hold of the fact, and he would have said, here is a witness who has contradicted herself, and therefore, she is totally unworthy of credit!—The absence of a witness under such circumstances, does not allow me to concur in the guilt of the accused party. I say that if I were on a jury and upon my oath, I could not conscientiously pronounce a verdict of guilty on the evidence before me. So much for this part of the case.

Another reason, my lords, why the witnesses in question have not been called in behalf of her majesty is, that it was found that attempts had been made to bribe and corrupt her servants. It was found that Mariette was actually in correspondence with her sister Demont; that this correspondence was carried on in *double entendres*, and under concealment. Is it unnatural, then, that suspicion should be entertained of treachery against the Queen? Is it unnatural, that the Queen's counsel, acting on their own responsibility, should even, in contradiction to her majesty's express wish, abstain from calling those persons? There is also another point in which my noble friend is mistaken: he says, that the counsel for the defence must, from their opening, have contemplated the calling of Mariette to contradict her sister, as to the scene at Catania; but if your lordships will look into the evidence of Demont, you will find, that she does not fix the precise morning, or if she does fix it by saying, that she was on that occasion called upon to assist in dressing, then she contradicts herself; for she says, that she met her royal highness coming out of Bergami's room undressed. So that if she fixes the morning in this manner, she has contradicted herself; and if she has not fixed it, it would be impossible that Mariette could contradict her. There is a further mistake of my noble friend, as to what was said about calling Mariette. The learned counsel for the Queen stated, that Mariette was to be

called to prove her majesty's innocence generally, and not to disprove any particular fact. I do not, however, mean to rest the case upon any statement of counsel.

I now come to the three celebrated witnesses Majoochi, Demont, and Sacchi. First, with respect to Majoochi—my noble friend on the cross-bench, who has handled the evidence of Mr. Hownam with great severity, stated, that the evidence of Majoochi was not materially damaged. I felt much surprised at this statement, after having witnessed six or seven palpable contradictions in that witness. If I were to fix upon any passage of his, in preference to another, which was unworthy of credit, it would be that in which he said, that the Queen passed to Bergami's room by a particular passage, denying that there was any second passage, until it was extracted from him in a manner, which none but a false and perjured witness could evince. I do not rely upon the contradiction of this witness by Carrington. I dismiss Carrington's evidence altogether; but, independently of that, I have other witnesses who have contradicted Majoochi, besides his many contradictions of himself. For instance, his forgetting matters, that it was actually impossible he could forget. He could not remember whether there were sheets on a bed which he had been in the habit of making for a considerable time. He could not remember where his fellow-servants slept in this or that place. He could, in fifteen or sixteen instances, give the most accurate descriptions of rooms, stair-cases, &c. and yet, in his cross-examination, he could not remember any thing. Is not this sufficient to discredit his testimony? There are other parts of this witness's testimony which I must pass over; such is his description of the noise heard through the deck, and the creaking of the bedsteads, with which I felt disgusted at the time. Your lordships will recollect the glee with which he described the use of the bottle in the carriage. Your lordships will also recollect his examination about his residence in Gloucester. He at first denied that he knew any person of the name of Hughes; but on cross-examination he admitted that he knew the person so well that he used to call him brother. My noble friend seems to think that his sincerity is established by his answer to a question respecting a conversation with Camera. On that occasion, my noble friend said that Majoochi called out, "Softly, softly; let me explain that story." This, however, is to me no proof of the validity of his testimony; and I say we must dismiss Majoochi as an individual who is unworthy of credit.

Now, I solicit the attention of your lordships to this fact—there is a general suspicion which attaches to the whole of the principal witnesses against the Queen. Those witnesses are Majoochi, Demont, Sacchi, and Restelli, all four, servants discarded from the family of her royal highness—three of them discharged in November, 1817, the other two months after. The whole of the proof brought against her Majesty is confined within the time of their service; and from the year 1817 down to the present time, we have not an atom of evidence—not a breath of suspicion—not a presumption of guilt—not an allegation of improper conduct—much less any direct proof of adultery brought against this unfortunate lady; for unfortunate I must call her, however exalted her rank. All those servants have been dismissed for some offence or other—two of them in possession of secrets which her majesty must know they could produce against her; but still they were dismissed. One of them, Demont, for having stated that which was false, and that which she innocently stated at your lordships' bar to be "effectively not true." It appeared that this woman had been guilty of an improper connexion with Sacchi, for in her letter to her royal highness, she said, that what she had done had been done under the influence of a fatal passion. From the important part which Sacchi played in bringing forward the witness Demont, it was impossible to avoid the suspicion, that those two persons were the foundation and ground-work of this conspiracy. Then, your lordships have seen how Demont has been contradicted with respect to the dress-ball at Naples. There was opposed to her the testimony of sir W. Gell and Mr. Craven, men who are above all suspicion. They stated distinctly, that the dress of her royal highness was removed as far as possible from indecency or nakedness. Sir W. Gell, indeed, from his knowledge of antiquity, has referred your lordships to a model, with which almost every body must be acquainted; and the dress of which, so far from being indecent, is quite the reverse. My lords,

I am afraid that in this country your lordships have too frequently witnessed in fashionable society, exhibitions of no very decorous description; but from which, nevertheless, you would be very reluctant to infer the slightest imputation of guilt. If this proceeding should produce no other good—and it has produced many evils—I trust it will have the effect of correcting the indelicacy to which I allude, and of showing to the fair, the advantage which they would in every respect derive from the concealment, rather than from the display of their charms. I certainly coincide with an author, who says, in a language with which we have lately been very familiar:—"Quanto si mostra meno tanto più bella."

There is, my lords, another part of the evidence to which I feel it necessary to call your attention—I mean that part where Dement states, that Bergami was present at her royal highness's change of dress at the masquerade. I am prepared to state, that I felt so shocked, so disgusted, with this part of the case, that even had no evidence been given by sir W. Gell in disproof, I could not have believed it. What! Is it likely, that her royal highness, who, as it was said, had nightly opportunities of being with Bergami—was it possible, that she, for the purpose of gratifying a passion which she had so many better opportunities of gratifying, should have chosen such a moment, and with Dement placed as a sentinel of her guilt? But the evidence of sir W. Gell put the matter beyond a doubt. He clearly stated, that the room was an open one, through which persons passed indiscriminately during the night. When your lordships have seen facts deposed to with such malignant purposes, can any one doubt either their object or their falsehood? Again, we have the evidence of Majoochi contradicted by Dr. Holland, who dressed Bergami's foot; Majoochi on that occasion swore that only her royal highness was present. It has been said by my noble friend, that this part of the case is not material. Why, then, are such facts introduced? Are they not introduced in order to show the improper familiarity which existed between Bergami and her majesty? When your lordships find this witness contradicted by such a man as Dr. Holland on a material fact, can you for a moment doubt that he is unworthy of belief?

With respect to Sacchi, his statements of what occurred at the Villa Brandi, as well as his equivocations respecting his change of names, prove him to be totally unworthy of credit. How does Sacchi stand? He swore he rode courier on the journey from Rome to Sinigaglia; he swore, that in the morning he rode up to the carriage of the princess, and drew the curtain. What is the contradiction to this? First, it appeared, that he did not ride courier at all on that journey; next, it was proved by Olivieri, that Sacchi was not there—that Carlo Forti attended as courier; this was further proved by the evidence of Vassali. But the most complete contradiction is, that her royal highness rode in an English landaulet, with glasses and spring blinds inside. It is impossible, then, that Sacchi's evidence can be true. The case, as far as depended on Sacchi, has been completely blown out of court. The story of Adam and Eve received a direct contradiction; so also Guggiari's testimony was directly contradicted, though my learned friend on the cross-bench does not admit it. My noble friend not only argued, that one man was not contradicted, because another was able to see what escaped his observation; but with that acuteness which enables him to detect the minutest circumstance against the Queen, while he overlooks every thing in her favour, he discovered that the boatman who contradicted Guggiari was blind. My noble friend asked the witness whether he had not had a complaint in his eyes. Undoubtedly, the man replied that he had. But that complaint discovered by my noble friend, and by nobody else, arose after the period to which the evidence in contradiction of Guggiari referred. But how does the evidence stand? Guggiari swears, that he rowed the princess in a boat on the Lake of Como, and that he saw Bergami kiss her, and he vouches other persons who were at that time present in the boat. And here it is lamentable to observe the description of persons who have been produced as witnesses throughout the whole of this proceeding. Plasterers, boatmen, carpenters, bricklayers' labourers—every body, in short, but an Englishman, and a credible witness—the meanest labourers, the refuse of Italian rabble constitute the mass of the witnesses who have been brought to your lordships' bar. Guggiari states, that he rowed upon the bench next to the princess and Bergami, and he vouches Lago Maggiore as the man who sat im-

mediately before him. Lago Maggiore is called; and although he could see distinctly into the cabinet, he says, he could see no such thing as is affirmed to have taken place by Guggiari. There is one general remark which applies to the testimony of all these witnesses, that the facts to which they speak are extremely doubtful and suspicious in themselves. Thus Galdini, the mason, states that he had twenty or thirty men at work, and that in going to look after the agent, he went accidently to the bed-room of Bergami, or the princess, and saw them kissing each other. It is suggested to me, that it was not the bed-room of the princess, but an outer apartment; at all events, it was a room said to be conveniently situated for their mutual intercourse; and is it at all probable that he should have gone to this apartment to look for the agent, instead of proceeding directly to his office? Evidence of this sort should be looked at with the greatest suspicion, especially when there is so much ground for believing, that it has been procured by sinister means. It is in proof that Riganti was the person who went to Restelli, and Restelli deposes to all those indecent and disgusting particulars, which I will not repeat. It is in proof, also, that Riganti, was the person who went to Pomi, and suggested to him that he might make a large sum of money, if he had ever seen Bergami put his hand up the princess's petticoats. Here, then, we find the same person who had gone to Restelli endeavouring to suborn Pomi, though in the latter instance his attempt was unsuccessful, and Pomi had integrity enough to say, that the princess was a good lady, and that he had never observed any thing improper in her conduct. All this kind of testimony, tainted as it is by such strong circumstances of suspicion, I must discard from the case as totally undeserving of credit.

Another circumstance not less suspicious than those to which I have directed your lordships' attention, is, that all these witnesses should have been so abstemious, so prudent, so reserved, that they never once have mentioned any of these extraordinary facts till the proof of them became profitable, and they were called upon to give evidence by the Milan commission. It cannot be too strongly pressed upon your lordships' consideration, that the evidence is confined to persons of the lowest description, to such rabble as you have seen at your bar, and that, with the exception of the two English witnesses, not a single person of respectability has been produced as a witness for the prosecution. The Attorney-general has attempted to explain this by arguing that the Queen would naturally be on her guard before Englishmen, and persons of rank, and he has been followed in the same line of argument by my noble friend on the cross-bench. I cannot admit that this is a sound, a liberal, or even a candid argument. Was the Queen unaware that her paths were beset, that she was surrounded by spies, that a commission was set on foot, whose great object was, to effect her ruin, ever ready to put the worst construction upon her most innocent or indifferent actions? Is it probable that she should have abstained from every thing approaching to indecorous conduct in the presence of those who were least likely to betray her—while, before these low, mercenary wretches, she indulged, without caution or restraint, in all those acts of profligacy and licentiousness with which she is charged? My lords, I cannot suppose that your lordships will attach the slightest weight to evidence of this description. My noble friend has made some observations upon the testimony of captain Briggs; but he will permit me to observe, that he has not taken a candid view of that part of the evidence. It is true that there is one circumstance of suspicion stated by captain Briggs—that the cabinets had been so altered by the direction of her majesty, as to make the access to the room of Bergami more easy than it was before. But my noble friend entirely overlooks what is stated by captain Briggs in her majesty's favour. Captain Briggs stated, that he slept in the dining-room through which Bergami must have passed; that no one could have passed through the room without running a great risk of being heard by him; that he was subject to all calls; and that the officer of the watch had constant access to his cabin, whenever any thing occurred of which he wished to inform him. He stated also, that there was a sentry constantly placed at his door; and, as to the conduct of the Queen, he never observed any impropriety in it, or any thing which was in the smallest degree calculated to excite suspicion.

I now come to that part of the case which requires the most serious attention

—I mean that which is alleged to have taken place on board the polacre. My noble friend upon the cross-bench relies upon the fact of Bergami sleeping under the tent. Now the same general observation applies to this as to the other parts of the case—that it is proved only by the evidence of Majoochi and other witnesses, whose testimony has been contradicted upon the most material points. I am willing, however, to admit, for the purposes of this inquiry, that it has been sufficiently proved, or if not proved, that it cannot be readily denied, that at Aum and during the journey to Jerusalem, Bergami slept in the same tent with her majesty, and that he also slept under the tent on board the polacre. In the first place, there is no sufficient proof that he slept under the tent, and if there were, there is no proof that other persons did not also sleep in the same situation. But supposing the fact of his having slept under the tent to be sufficiently established, it then becomes a question, whether that fact affords such a fair inference of guilt as would justify your lordships in pronouncing a verdict of guilty. I cannot help thinking that my noble friend, in referring to the evidence of lieut. Hownam, animadverted with too much severity upon the conduct of that gentleman, relying, as my noble friend does, upon his testimony, for the proof of the fact upon which he mainly depends. I could have wished that my noble friend had viewed the evidence of lieut. Hownam with somewhat of the same liberality which he applied so unsparingly to the testimony of Majoochi. Looking at the manner in which lieut. Hownam declared that he did not know where Bergami slept, and afterwards stated his belief upon the subject, I do not conceive that any candid or honourable man will think, upon an impartial consideration of his testimony, that he discovered any disposition to prevaricate. Throughout the whole of his examination he was repeatedly cautioned to distinguish between what he knew of his own knowledge, and what he knew only by hearsay, or was merely matter of belief. Was it not natural, then, that when he was asked whether he knew where Bergami slept, he should have answered in the negative, though when he was afterwards questioned as to his belief, a question which, if I remember rightly, was not permitted to be asked in the examination in chief, he answered without the slightest hesitation, and without showing the least desire to throw any doubt upon the matter? In a subsequent part of his examination, he accounted for his belief, by stating that he once saw the Queen come down with Bergami upon the occasion of a squall off the coast of Caramania. I think, therefore, that, notwithstanding the contradiction which one part of his testimony receives from captain Briggs, lieut. Hownam does not deserve the severe denunciation of my noble friend, and I cannot help regretting, that my noble friend, who has examined the evidence for the prosecution with so much tenderness, should have thought fit to apply such an expression as a perjured wretch to this witness. As to lieut. Flinn, he contradicted himself so directly as to Schiavini's writing the letter, that I think we are bound to lay his testimony out of the case. Not that I think the man meant to give false testimony; he could have no possible motive in concealing that particular fact. I am inclined to impute his inconsistencies to a confusion of intellect, rather than to wilful misrepresentation; but from whatever cause they arose, they ought undoubtedly to exclude his testimony in the consideration of the case before your lordships. It is somewhat curious to observe, that my noble friend is ready to admit the testimony of lieut. Hownam, as to a fact in which he is directly at variance with his favourite witness Gargiulo; for lieut. Hownam says, he believed Flinn commanded the ship, whereas Gargiulo stated positively that he had himself the command of the vessel. It has been said, that as soon as the admission was made by lieut. Hownam, that he believed Bergami slept under the tent, the whole character of the defence was changed, and it was then stated by the counsel for her majesty, that this fact made a part of their case. In that extraordinary display of eloquence and reason with which her majesty's defence was opened, and to which I listened with the greatest attention, I certainly do not remember having heard it stated, that this fact formed a part of the case. I remember, however, that in the opening of the Queen's case, not only was this fact never attempted to be denied, but unless my recollection completely deceives me, Mr. Williams, in the course of the able com

ments upon the evidence with which he followed up Mr. Brougham's arguments, stated it as a fact which was meant to be admitted. In confirmation of this, it appears from the examination in chief of lieuts. Hownam and Flinn, that no attempt whatever was made to cast a doubt upon the fact of Bergami having slept under the tent. The evidence, then, of five witnesses, supposing it confirmed by the admission of lieut. Hownam, amounts to this, that during five weeks Bergami did sleep under the same tent with the Queen. Now, would your lordships be justified in inferring the guilt of the Queen from this circumstance, and in pronouncing a verdict against her, if this were a common verdict of guilty or not guilty? It does not appear to me that your lordships would be so justified. There was no mystery in this case; no attempt at concealment; it was not the same thing, as if a man had secretly entered the apartment of a woman in the night, while she was in bed, and slept there under circumstances which could lead only to one inevitable conclusion. I admit it to be a circumstance of a suspicious nature, for which the excuses and reasons which have been assigned, do not appear to account satisfactorily; yet it is a circumstance which may have existed, considering how the Queen was situated on board that vessel, consistently with perfect innocence. In the first place, there is the evidence of Gargiulo and Paturzo. Now, with respect to the fact of Bergami having slept under the tent, there seems no reason to question the testimony of these witnesses; but it is no less clear that a colour was attempted to be given to that fact. I do not think Paturzo and Gargiulo unsuspicious witnesses. In the first place, they have received a large sum of money, as an inducement to give their evidence in this case, and they were compelled to come over to this country by the British minister, assisted by the minister at Naples. Your lordships were told that Paturzo was sent away by Gargiulo, lest his morals should be endangered by witnessing the scandalous scenes which took place on board the vessel. This modest, delicate, Sicilian skipper, Gargiulo, out of his tender regard for the morals of the simple youth, Paturzo, ordered him away, that his purity, forsooth, might not be corrupted! I say, my lords, the extraordinary compensation which this man received for his loss of time, and his extreme anxiety to merit that reward by casting imputations upon the Queen, are circumstances which render his testimony liable to the greatest suspicion. One of his answers affords a remarkable proof of his eagerness to thrust in every thing which he thought unfavourable to the Queen. In answer to a question, whether the princess had ordered certain things to be done, he says "The princess commanded, because Pergami commanded it, and she commanded whatever he commanded." This is not all; for the captain's testimony received an additional bias from his quarrel with Bergami, and his disappointment with repect to his profits. It appears that he presented a memorial on this subject to the minister at Naples, and that he renewed his claim in this country. In answer to a question as to these facts, he says, "I received nothing; nay, my minister and the colonel told me that they knew nothing, and that I might go to London, and then see upon this particular." He is asked what colonel he means, and he replies, colonel Browne. So that he was not only receiving 1,000 dollars a month as a compensation for his loss of time, but he was actually seeking a further compensation of 6,000 dollars, and came to this country upon the recommendation of colonel Browne, under the expectation of succeeding in that claim. As to the fact itself, is it credible that two persons, who had been gratifying their passions all night, could not abstain from the same indulgence in the day; and that, so extraordinary was their appetite, that they could not abstain from exhibiting before the whole ship's crew? It had been asked, why Schiavini has not been produced; but all he could have deposed to was, as to the letting down of the awning; and could his evidence be for a moment thought necessary? Your lordships are called upon to believe that her majesty, not content with the nightly opportunity of gratifying her passions, was in the habit of exclaiming in the middle of the day, "Now the fit is come upon us; now we are so hot that we can contain ourselves no longer; let down the curtains, and let us abandon ourselves to enjoyment."—Such is the conduct which your lordships are called upon to believe. If an adulterous intercourse had been their object, why was not the cabinet below chosen for the entertainment? Surely that part of the vessel would have been chosen in preference to the tent, which was open to every body's inspection,

and to which the sailors had constant access.

It has been said, that it is absurd to argue that no adulterous intercourse could have taken place, merely because the lady and gentleman happened not to be undrest, and undoubtedly it would be absurd; but I call upon your lordships to consider the circumstances in which the Queen was placed. She was in the habit of throwing herself upon her couch in a state of exhaustion and fatigue—a situation of itself totally incompatible with the guilt which was imputed to her. Your lordships are bound to take all these facts into your consideration, and to give to the accused the benefit of all those circumstances which are favourable to her innocence, or inconsistent with the supposition of her guilt. When the situation of persons on board ship is considered—a place where the most modest female is obliged to resign all ideas of delicacy—where, as is said in that valuable judgment to which I have already referred, all persons, male and female, are cooped up together in a state of miserable intimacy, and where every word and action are necessarily known to all on board—to suppose that an adulterous intercourse could have taken place under such circumstances, is an inference which your lordships cannot be justified in drawing. Undoubtedly, the sudden elevation of Bergami, and the favours which were conferred upon him, are in themselves suspicious circumstances; but they cannot lead to that fair inference of guilt which would justify your lordships in pronouncing a verdict against her majesty. Your lordships have to decide upon this bill, and in dismissing the facts of the case, I shall proceed as briefly as possible to make a few observations upon the preamble of the bill.

My lords, when this case was first brought before you, it was not stated as a simple adultery, much less as an adultery committed three years ago, without any proof whatever of its subsequent commission. The preamble imputed a course of gross, indecent, and licentious conduct which reflected disgrace and dishonour on the throne, and required your lordships' interference with a bill of Pains and Penalties. I ask, if the simple case of the polacre, founded as it is upon suspicion only, has made out the charge in the preamble? I desire your lordships to consider what is the case upon which you are called upon to pass a bill of Pains and Penalties. In the first place, not a single charge is even imputed to her majesty for the space of three years, from the period when these infamous and abandoned witnesses, for I am justified in applying this language to them, quitted the service of her majesty. If the acts with which her majesty is charged, had not been committed in this country, they would not have amounted to high treason; for not one of them has been committed within the period which would have admitted of a charge of high treason. As to the disgrace and dishonour which is said to have been reflected upon the country, where, I would ask, is the proof of this charge? Undoubtedly, Bergami was imprudently elevated, but it is to be recollected, that he was elevated by the power of a great princess. It has been proved by eleven or twelve witnesses, that he did not abuse his elevation; on the contrary, he acted towards his associates with a feeling which proved that he had not forgotten his former station. My noble friend, in noticing the manner in which Bergami was in the habit of lighting sir W. Gell down stairs, observed, with some degree of acrimony, that he smelt of the shop; but surely it ought not to be made a subject of charge, that he conducted himself with kindness to his former associates, or that he was willing to testify his gratitude for the obligations which sir W. Gell might have conferred upon him. As to the distinctions which her majesty bestowed upon Bergami, reflecting disgrace upon the country, so far is that from being the case, that Bergami was recognized and honourably received at several courts visited by her majesty. Her majesty visited Munich, the court of the king of Bavaria, and Bergami accompanied her; she was received at Turin, the court of the king of Sardinia, and Bergami was received with her; she visited Carlsruhe, the court of the grand duke of Baden, and Bergami was likewise received with her. As to the testimony of Barbara Kress, it has, in many material circumstances, received a direct contradiction, and no part of it has been brought home sufficiently against the Queen to afford a fair inference of guilt. As to the stains on the bed of Bergami, the Queen had never been so connected with that bed as to establish any legal inference of guilt; nor was the cloak ever proved to belong to the Queen. It was not from any delicacy on the part of the Queen's

prosecutors that the stains upon the bed had not been more distinctly connected with the guilt of her majesty. Why was not that proof of guilt established by the testimony of Demont, who had the care of the bed-linen on board the polacre? The fact of such stains having been seen, might have been easily established against the Queen, if they had ever existed. So far from the conduct of her majesty having reflected disgrace upon the country, she had been honourably received at Munich, Turin, Baden, and even at the court of Rome; at every court, in short, in which she had not been met by the hostile interference of a British minister.

With respect to the expediency and effect of this bill of Pains and Penalties, if this case had been brought up from the House of Commons by way of impeachment, your lordships must then have laid your hands upon your hearts and pronounced a verdict of guilty or not guilty. In so doing, I should have said, with the learned lord on the woolsack, "Be just, and fear not." It is neither my temper, or habit, or disposition, to be diverted by popular clamour, from the execution of a just and necessary act. But we are here legislating for the public interest, and in so legislating we are bound to consider what that interest requires. Much has been said of popular clamour; and that much intemperate and improper feeling has existed, I am not disposed to deny. I stated my opinion on this subject on a former occasion, when that ill-advised letter was written by her majesty to the king, and I have no hesitation in expressing the same opinion now with respect to the answers to addresses. I think the Queen has been most unfortunately advised, with a view to her own interest, in publishing these answers. But it is the duty of your lordships to divest yourselves of all bias which that conduct may have produced, and not to pass the bill under the influence of those feelings which it may be calculated to excite. Your lordships deceive yourselves if you believe, that a strong feeling has not been raised throughout the country. The learned lord on the cross-bench has said, that he does not believe in the existence of any general feeling of that nature. Where, I would ask, can the learned lord have lived, if he has not witnessed or heard of the strongest indications of the public feeling. That feeling has been expressed from one end of the country, to the other, by all classes of the community, and not merely by the mob or rabble, as was stated by the noble lord. And here I cannot help regretting that these terms should be so often used in this House, and that when popular feeling is strongly excited, it should be increased by language which is calculated to widen the breach, and to alienate the people from their natural protectors. I believe that a very large portion of the community, comprehending the most opulent merchants, tradesmen, and persons of the greatest respectability, have formed a decided opinion upon the proceeding now before your lordships.

There is another consideration which deserves the serious attention of your lordships, without suggesting any unworthy submission to the other branch of the legislature. Your lordships are bound to consider the possibility of this measure being rejected by the other house of parliament. If his majesty's ministers and their connexions shall still press this measure beyond a second reading, against the sense of the country, then I ask what will be the probable effect of such a proceeding upon the other branch of the legislature? If this bill shall be passed by a majority of such persons and their connexions, added to individuals who have not attended the whole of the proceedings, and more especially those who have absented themselves from the defence of the Queen, and who yet think themselves justified in voting for a bill of Pains and Penalties against her majesty, that fact, conjoined with the strong feeling existing among the most intelligent classes of the community, must necessarily have an effect on the House of Commons, such as will give the friends of the measure little reason to hope, that it will be agreed to by that House. My lords, I have stated on a former occasion that I can scarcely conceive an evil more fatal to the tranquillity of the country than the mighty division that might be created between the two Houses of Parliament, should we agree to a bill degrading the Queen Consort of these realms, and the House of Commons reject the measure when sent to them. And let us not overlook the difficulty with which the very attempt to press the bill through the other House must be attended. We have seen among ourselves, with little more than two hundred members, all disposed, as I am persuaded they are, to the strictest

discharge of their duty, how difficult it has been for the learned lord on the woolsack to conduct the proceeding with a proper regard to decorum and dignity. What will be the event in the other House, or how long this miserable cause may be continued there, I know not. But when I recollect the length of time during which we have been occupied with it, it appears to me to be very evident that all public business will be most inconveniently suspended, that the ferment in which the nation now is, will be increased to an alarming degree, and, as all the disgusting scenes that have been described at your lordships bar will be again laid before the public, that the morals of the nation will not experience any considerable improvement in purity and delicacy. We already have cause to see what the opinion of Europe is; on our proceedings as they at present stand. How will that opinion be confirmed if those proceedings should continue for months, nay perhaps for years, without arriving at any termination! But that appears to me to be much the least difficulty of our situation. Much greater evils would follow the rejection of the measure by the other house of parliament after its adoption by this. And here I must express my opinion, that many unfair and improper means have been resorted to for the purpose of producing an influence on this subject. I have indeed heard (although I am persuaded the report cannot be true) that learned judges have been quoted as having given an opinion, that with the evidence which had been adduced on the present occasion they must direct a jury to find a verdict of guilty. Though this report has been very generally circulated, I do not believe it. I have also heard that an expectation has been held out (but I am sure the noble earl opposite would not be a party to such a compromise), that if the bill were but to be read a second time, it might afterwards be got rid of altogether. I am sure that the noble earl opposite would reject the proposition with disdain. I am sure the noble earl must feel, that if the bill is read a second time, it will be his duty to pass it, if he can, through this House. If it should be read a second time, I am inclined to think that I should deem it the less evil to pass than to reject it. Let it be read a second time and the whole mischief will be done. As far as it is in our power to do so, we should thereby affix a stigma on the character of her majesty, which no ulterior measure could efface. It has indeed been said by the learned lord on the woolsack, that the bill may be altered both in its provisions and in its preamble. But, my lords, I am by no means satisfied that any diminution in the enactments of the bill will diminish its ill effects on the public mind. But, when the learned lord spoke of the practicability of making these alterations in the bill, he spoke of them as affording a proof of the advantage of the present over any other mode of proceeding having a similar object. My lords, if this proceeding had been in the shape of a trial, your lordships must individually have pronounced a verdict of guilty or not guilty upon every article of accusation; and, if the majority had been in favour of acquittal, her majesty would at once have been freed from all charge. But here, having failed in establishing their original allegations, her majesty's accusers wish to substitute others. They wish to send the bill into a committee, where, having failed to fit the proofs to the indictment, they will endeavour to fit the indictment to the proofs. If this should be done, my lords, it will be impossible to deny her majesty the privilege of being heard again at your bar, there to state the hardships and grievances to which you have subjected her. But the bill may be altered—it may be mitigated. Now, what may be called a mitigation of the measure by some of your lordships, the Queen and her advisers may not think so. I will exemplify this, with reference to the understanding which seems to prevail, that the divorce clause was to be left out of the bill. If I conceived, that the charges against her majesty were substantiated by evidence, and that the bill ought therefore to pass, no power on earth could persuade me that the divorce clause ought to be omitted. Such a proposition would, as I have before stated, have appeared to me calculated to degrade not only the Queen, but the king. There could, in my opinion, be no greater legislative absurdity, than to agree to a bill degrading the Queen for scandalous and licentious conduct, and yet to leave her the wife of the king. But, opposing the bill, as I do most conscientiously, on the ground that the charges against her majesty have not been established, I am somewhat at a loss what to do with respect to the divorce clause. I will give

no pledge upon the subject. My conduct shall be regulated by circumstances. The present inclination of my mind certainly is, that if the motion before your lordships should be agreed to, the mischief will be done; and that in that case the bill had better pass as it is. In that case, your lordships will at least act consistently. But, if the bill should be read a second time, and then rejected by some contrivance or other, in what situation will you stand? Would your difficulties be diminished? What would you do further? What would the other House do? The business could not stand still. The Queen must be invested with all her rights and privileges, and prerogatives; and she must be so invested in the face of a second reading of a bill of degradation against her by the House of Lords! Our difficulties would be increased instead of diminished. It is true, that some step, such as that to which I allude, might serve as a kind of shelter for his majesty's ministers, but they could shelter themselves only by investing us with their disgrace and difficulty. This my lords, is the only word which I will allow myself to utter on this view of the question. I should hold myself to be indeed acting unworthily if I were to make the present a subject of party feeling. I trust that I have not pressed into the present argument any unfair or unworthy topic. I trust I have treated it as a legislator and a judge. I trust that the motives which induce me to urge your lordships not to leave a brand on her majesty, of which, she is, in my opinion, undeserving, are of a pure and honourable description. My lords, a great part of my political life has been spent in storms and convulsions. As far as human infirmity would permit me, I have endeavoured to pursue a direct and steady course. I have never courted power. In consequenee of my adherence to principle I have been excluded from power. In the course of my life I have also been the object of much popular reproach. These, I trust, are proofs of the determination which I have invariably evinced to resist the undue encroachments of the Crown, and at the same time to defend from the attacks of the people those rights and prerogatives which are not more necessary for the dignity and splendor of the monarch, than they are for the protection and the happiness of the people. In the case before your lordships, I have not made up my opinion without much anxiety and much consideration. I fairly acknowledge that my prejudices and impulses were quite unfavourable to my present conviction. I hardly conceived it possible that a case would be made out which would not compel me to vote for this bill; but, such a case has been made out; and, my lords, first on the ground of justice, and secondly, on the ground of expediency, I feel, that if I were to vote for this bill, I should never again lay my head down upon my pillow in peace. The only vote which, under the deepest sense of my responsibility I can conscientiously give on the present question is—Not Content.

The Earl of *Liverpool* * rose and said:

My Lords;—In rising to address you on the present occasion, I feel that I have to speak to a question which obviously, and on the face of it, combines two considerations, distinct in themselves, and which may operate very differently upon different minds;—I mean, first, the great question, whether her majesty is or is not guilty of the charges which have been adduced against her? and, secondly, the legislative question, whether it is or is not expedient to pass the present bill? Although I perfectly concur with my noble and learned friend on the woolsack, that the only question which we are at present called upon to decide, is, whether or not this bill shall be read a second time? yet I cannot but in some degree regret the necessity of such a course of proceeding; for it is impossible but that the judgment of every man must be in some measure confounded by considerations of a nature so different as those to which I have alluded, and by a combination of questions, which may leave it a matter of some uncertainty, whether the decision to which the House will come, will be strictly a decision on the question of guilt or innocence, or on the question of the expediency or inexpediency of the bill.

In the view which I have taken of this subject, I shall, in the first instance, propose to inquire whether the substantive part of the preamble has been so proved, as to induce your lordships to read the bill a second time. The noble earl who has just sat down, alluded to some supposed understanding as to what should be the conduct of the House with respect to the

* From the original Edition printed for Hatchard and Son, Piccadilly.

bill, if it should be read a second time and sent to a committee. To such an understanding I am no party. It will be for your lordships to decide, after the second reading of the bill (if it shall be your pleasure to read it a second time) whether the allegations in the preamble have been proved, either wholly or in part; and if you should determine that they have been proved, it will be for your lordships to decide, what the enactments of the bill shall be, and what further course you will adopt with respect to it. But the sole question on which you are called upon to decide in the present stage of the proceeding is, whether or not you will now read the bill a second time?

In discussing this measure, I will, for the present, lay out of my view all considerations arising out of the question of expediency or inexpediency. In doing this, I by no means undervalue those considerations; but the most proper time for arguing them was, when the form of proceeding was under your lordships' consideration, on the 17th of August. You then considered the question, whether you would entertain the bill at all, and whether you would admit counsel to argue this point before your lordships. You did hear counsel on both sides;—and you determined on pursuing the measure. Your lordships have now been occupied between forty and fifty days in the examination of this great case. The counsel for and against the bill have joined issue,—as to the facts. You have heard the counsel in support of the accusation; you have heard the counsel in support of the defence; you have heard the evidence on both sides of the question. Under these circumstances, you owe it to yourselves, you owe it to the Queen, you owe it to the country, to come to a decision one way or the other, on the facts as they appear on the Minutes. However you might formerly have been disposed to arrest the agitation of the question, now that the inquiry is complete, your lordships are bound, by every principle of justice, to pronounce an opinion upon it.

Having said thus much on the necessity of coming to a determination on the question, I proceed to notice what has fallen from the noble earl, with reference to the allegations in the preamble of the bill. The preamble contains several allegations; but I conceive it to be a new doctrine, to maintain, that it is not competent to your lordships to decide which of those allegations appear to you to have been proved, and which not. There may be minor,—there may even be important circumstances in those allegations which your lordships may think have not been satisfactorily proved. But there may be other circumstances in those allegations which your lordships may think have been satisfactorily proved, and on which you ought, therefore, to decide. This is analogous to every principle of justice hitherto acted upon in every court in the world. In the courts below, juries are continually finding verdicts upon certain counts of an indictment, and not upon others. In the case of an Impeachment, your lordships have an undoubted right to affirm certain articles, and to reject others. Sometimes only particular parts of some of the articles of an Impeachment have been affirmed by your lordships. The preamble of this bill must of course stand on the footing on which every other mode of accusation stands. All the parts of which this measure is composed, are open to alteration—to alteration, not by which the severity of the measure may be aggravated, but by which it may experience mitigation.—And here, my lords, I wish most distinctly to declare, that, whatever any noble lord may think of any or all of the allegations in the preamble, no one ought to vote for the second reading, and I trust no one will vote for the second reading of the bill, who does not believe that the adulterous intercourse has been proved by satisfactory evidence. That is the real question before us, and to that I now wish particularly to draw your lordships' attention.

The noble earl who has just sat down says, "What a difference between the proof at your lordships' bar, the allegations in the preamble of the bill, and the case opened by the Attorney-general!" and he makes a personal appeal to me, whether, if I had thought the evidence in support of the charges would have turned out as it has done, I would have introduced the bill at all? Upon this subject, I might, perhaps, appeal to authority of which the noble earl would not think lightly, with respect to the sentiments which I entertained—(I do not mean to any noble lord near me)—as to the mode of proceeding, before the case in support of the bill had been opened. On the occasion to which I allude, I stated, that in

my opinion, two views might be taken of the best mode of proceeding; the one, that which has been actually adopted by his majesty's Attorney-general, namely, that of producing the whole testimony tending to demonstrate the culpable intimacy so long subsisting between her majesty and Bergami; the other, that of resting the bill upon a shorter and narrower case. I do not state it as my opinion, that the latter course ought to have been pursued; but I say thus much in answer to the noble earl, to show that I did contemplate another view of the subject. But, my lords, be that as it may, I am completely ready to discuss the question on the evidence as it now stands.

I am quite willing to admit, that there is a great mass of contradictory testimony. But I ask your lordships, if ever there was a great case, in which the interests and passions of mankind have been excited, which has not exhibited a great mass of contradictory testimony,—of assertion against assertion, of oath against oath? Was it not so in the Douglas cause? Was it not so in the Anglesea cause? It may be very much to be lamented that such should be the case, but so it is. The reason is, that even where there is no ground for imputing deliberate or intentional perjury, witnesses in such cases nevertheless become partisans. Each colours his own story according to the bias of his mind. The statements of such witnesses, always assume the appearance of the statements of partisans. This, my lords, is an evil which has existed in all great judicial causes, that have been tried before any tribunal in the world. It is an evil which exists in the case before us; and I am quite ready to admit, that whatever doubt these considerations are calculated to create, it ought to operate in favour of the accused party. I am perfectly ready to make this allowance; and I wish it to be distinctly understood in the whole course of my argument on this subject, that if I reject a great deal of the evidence which has been adduced, I reject it, not because I necessarily disbelieve it, but because, whenever I entertain any doubt, I think that to the benefit of that doubt the accused party is fairly entitled. My lords, I will go further. I will say that this case ought to be decided only by the uncontroverted and uncontradicted facts brought before your lordships. If I cannot show that the adultery has been proved by uncontroverted and uncontradicted facts, I will consent to give up the bill altogether.

It has been said by the noble earl that a case of this kind ought to be tried on the evidence of respectable and uncontaminated witnesses: persons not only of unimpeached character, but whose situation in life is such as not to render them liable to the suspicion of being unduly influenced. But, my lords, may not a case be such as to render it utterly impossible, although the guilt of the party is undeniable, to try the guilt or innocence upon such testimony? May not the production of such witnesses as the noble earl desires, be rendered impracticable by the very conduct of the party accused? The noble earl who spoke from the gallery (Harewood) wishes that her majesty could have been tried on the evidence of English witnesses. So do I; and so, doubtless, do all your lordships. But, if her majesty chooses to reside abroad; if she surrounds herself with Italians; if, with a single exception, she has not an English person near her; how is it possible that she can be tried on the evidence of English witnesses? In the same manner, if her majesty separates herself from all the higher ranks of society, and takes into her household only persons of the lowest rank and character, it is a sort of insult to our understandings to require that none but respectable witnesses shall be produced at your lordships' bar. If her majesty places herself in a situation in which she is surrounded by persons not of that description, we must take as evidence the persons by whom she is surrounded. Undoubtedly, this may be a reason for examining the testimony of such persons with some suspicion, but it is no reason for rejecting such testimony, when the case does not admit of any other.

My lords; the noble earl says, and says truly, that most of the allegations against her majesty have been supported by certain of her majesty's servants, who have been dismissed, or who have quitted her service. Now, my lords, that is unquestionably the natural testimony to be expected under such circumstances. From the mouths of servants still retained, even under the supposition of the existence of guilt, no criminatory evidence can fairly be looked for. Such evidence can be expected only from those who having been in the service of the accused party at the period to which the accusation refers, are

no longer so. But there is a very curious circumstance to which your lordships' attention ought to be directed. The evidence on the part of the accusation has, as the noble earl says, been principally that of servants who have been dismissed, or who have quitted their royal mistress's service? What would have been the natural answer to such testimony? The evidence of the servants who, having been in her majesty's service at the time to which the charges apply, and who still remain attached to her. But what is the actual state of the case? Has any such answer been given? Your lordships have had before you, as witnesses in support of the Bill, former servants of her majesty, who have been examined and cross-examined; and whom, if you think proper, you may discredit and disparage. But, whom have you had on the other side? With the exception of Mr. Hownam, of all the persons who lived in the Queen's family during the period to which the allegations of the preamble apply, not one has been called whose testimony is at all material. Is it not to be presumed, that the whole truth of the case might have been rendered more manifest if all the persons who were in the service of her majesty at the period which I have described had been examined? As those who have left her majesty's service have been brought forward in support of the accusation, how is it that those who have remained in her majesty's service have not been brought forward in support of the defence? If that had been the course pursued, the defence would have had the unquestionable advantage, that, whilst a discarded servant is a witness who must always be looked at with suspicion; a servant retaining his situation stands in a very different point of view, and is naturally an object of trust and confidence. Nevertheless, my lords, such has been the case. The testimony of the persons who have left her majesty's service has been brought in support of the charges against her, while none of those who have remained in her majesty's service, and who have therefore avowedly been within reach, have, with the exception of Mr. Hownam, been called for the purpose of rebutting those charges.

My lords, the evidence which has been adduced on this case, has been already examined with so much minuteness on all hands, and more especially by my noble friend on the cross-bench (earl of Lauderdale), that it is needless for me to trespass on your lordships with any long detail respecting it. It is material, however, in justification of the course which I am recommending to your lordships to pursue, that I should again call your lordships' attention to the leading features of this case. I have already stated how I think the general question stands with respect to the evidence. I do not know any fairer view of the question than to take the evidence of Demont on the one side, and of Hownam on the other, and compare them with each other. The one, discarded as she has been from her majesty's service, may be supposed to be actuated by strong prejudices against her majesty. The sense which it may be imagined she entertains of the ill-usage that she has received, or fancies she has received, will, it may be supposed, influence her testimony in such a way as to render it justly liable to a considerable degree of suspicion. The other—and I am sure I say it to his credit—brought up in the family of the princess, owes every thing to her—his education—his promotion—his station in life. At this very moment, I believe he enjoys a pension from her majesty;—in short, he is under every obligation of gratitude to her majesty which one human being can be under to another; and, without imputing to him any sinister motive, it is impossible but that he must be considered as a witness strongly prejudiced in her favour. Here then, my lords, you have two witnesses, both of whom were living with her majesty from the time of her going to Genoa, during the whole of the three years to which the charges against her majesty in the preamble of this Bill apply. I desire your lordships to read the statements of these two witnesses, Demont and Hownam, together; to criticise those statements; to compare and contrast them; and I will venture to say you will find that in every material circumstance where they can confirm each other, they do confirm each other, and lead to the same conclusion.

I am now, my lords, unavoidably led to that which forms one of the most important features of the great question before us;—I mean the *elevation of Bergami*. The circumstances which attended the elevation of that individual give a character to these transactions which your lordships ought to bear in mind in the consideration of every branch of the question. I do not enter upon this part of the sub-

ject with the purpose of giving any opinion whether or not the act of adultery was committed at Naples. If I were to come to the question on that fact alone, I should be bound to find her majesty not guilty of the act of adultery at that time. Not that I am without suspicion on the subject. I have nothing, however, before me on which I can decisively rely—nothing that goes beyond grave suspicion. But, my lords, can we advert to the circumstances of Bergami's rapid rise, without carrying that suspicion to the greatest height? Can we recollect that the conduct of her majesty at Naples, was such as to require, in the opinion of one of her vice-chamberlains, an admonition on his part, however it may be explained? Can we advert to that one fact, not contradicted by any one, namely, that her majesty selected Bergami from all her household, he being then a menial servant, and went with him and Demont, privately and mysteriously, to the masquerade at the theatre of San Carlos in a hired carriage? Can we look at all the occurrences of that period, and not be convinced that there must have existed at Naples, if not an absolute suspicion of guilt, at least a suspicion of a degree of intimacy and familiarity between her majesty and Bergami, which required to be checked and controlled? My lords, notwithstanding the seasonable caution and admonition, which her majesty had received, we see how speedily that intimacy and familiarity increased. When her majesty comes to Genoa, what takes place? We see Bergami's family received into her household. We see his mother taken into her house. We see his sister taken into her household. We see his brother taken into her household. We see his nephew taken into her household. We see his child taken into her household. We see, sooner or later, almost every member of Bergami's family taken into her majesty's household—*except*, my lords, *his wife*. Then, can your lordships possibly look at the introduction of the rest of Bergami's family, and the marked exclusion of his wife, as any thing but an unequivocal symptom of what was the basis of the connexion which subsisted between her majesty and that person.

But another circumstance soon occurs of the utmost moment in this case;—I mean the mysterious manner in which Bergami's sister, the countess Oldi, was taken into her majesty's family at Milan. This is the more remarkable, as there perhaps never was a character less addicted to mystery than that of her majesty. Why then, my lords, was the countess Oldi taken into her majesty's family in a mysterious manner? What temptation—what inducement was there for it? It was certainly a strange selection;—countess Oldi did not understand French; her majesty could speak scarcely any Italian. But why was there so much mystery in the transaction, if it were not that there was some secret understanding on the subject between her majesty and Bergami? I speak advisedly when I say, my lords, there is not a tribunal in the world by which the fact of this mysterious introduction into her majesty's family of Bergami's sister, Bergami himself being then only a courier in her service, would not be deemed conclusive as to the real nature of the connexion between her majesty and Bergami. Dr. Holland knew nothing of this. Her majesty never told him who the countess Oldi was; she never told Mr. Hownam, her private secretary, a man in whom, in other respects, she had perfect confidence. It was a secret which her majesty wished to keep from all the world. On what ground we can reconcile this with any thing but the existence of a powerful attachment between her majesty and Bergami, between whom the countess Oldi was to form the convenient and connecting link, I am utterly at a loss to conceive.

Let us go a little further, my lords. We find at Bellinzona, Bergami dining at her majesty's table, though still a courier, and in his courier's dress. And where was this? Was it at some small shabby inn, at which her majesty had stopped, and at which it was impossible to provide accommodation? No such thing. Was it at any place, under circumstances which might account for her majesty's sitting down at table with all her servants? No such thing. Bergami had travelled in the same carriage as Hieronimus; but neither Hieronimus, nor any of the other servants, were permitted to dine with her majesty. Bergami alone was thus especially distinguished. My lords, can any man say that this was not an act of degradation on the part of her majesty? If we couple it with the admission of all Bergami's family—with the memorable exception of his wife—into her majesty's service; and with the mys-

terious introduction of the countess Oldi, can any man say that, it was not an act of the greatest degradation; or that it can be ascribed to any cause but one?

But, my lords, let us proceed. In another month we find that the courier's dress is taken from Bergami, and that he is promoted to the rank of an equerry. Lord Guildford sees him alone with her majesty in a canoe on the lake of Como. He is not only admitted to her majesty's table, but he is made her constant companion; the person who attends her on all occasions, and who is marked and distinguished by her peculiar favour.

My lords, I am the last man in the world to contend that there is any one, so low in birth, so poor in fortune, or so degraded in station, that he may not, by his talents, by his virtues, by his services, I will even say by his good fortune, justly rise to situations of the highest trust and dignity. But what do we see in this case? Did any of your lordships ever before hear of a courier becoming in six months a baron and a knight of Malta? In modern times, and in respectable society, can so rapid an elevation be attributed to any other cause but that to which I have already adverted. What had Bergami done to merit the distinction? From what danger had he protected his royal mistress? Never from any. At Genoa, when her majesty's house was attacked, if any one protected her it was Theodore Majoochi, for he fired the gun and dispersed the thieves: and, as to what occurred at the Villa Villani, her majesty knew nothing of it until after her return from the long voyage. Under such circumstances, I again ask, how are we to account for Bergami's sudden elevation?

Let us look a little more closely, my lords, into the way in which Bergami's family were introduced into her majesty's household. I can understand a person's doing one of two things when removing a man from a low to a high situation. I can understand how an individualin a low situation may be taken by the hand, and abstracted (if I may use the expression) from his family; or, I can understand how a whole family may be promoted in situations bearing some relation to that of the individual on whose account they are patronized. But how were the family of Bergami taken by her majesty? Some were placed in high situations, some in low. Bergami himself, the courier, was made an equerry, and a chamberlain; his sister, the countess Oldi, a lady in waiting; his brother a footman; his nephew, a stable-boy; and his other sister, a maid;—and I particularly request your lordships attention to this circumstance, that Bergami's sister, Faustina, was received into her majesty's service as a maid, whose duty it was to take care of the linen. What could have induced her majesty thus to fence herself round with the whole of her favourite's family, some in high stations, and some in low, but one overpowering motive?—And still further, my lords. In little more than six months from the time at which Bergami ceases to be a courier, he becomes the baron of Francina, and a knight of Malta. An estate is purchased for him by her majesty, and called after him, the Villa Bergami. We find St. Bartholomew's day likewise kept as his festival. And afterwards comes a circumstance more extraordinary than all the rest;—I allude to the institution of the order of St. Caroline by her majesty, on her journey to the Holy Land. Let me not be mistaken. The bare fact of the institution of such an order by her majesty I allow would not be deserving of much notice; but it becomes of the utmost importance as connected with the uniform favour manifested by her majesty towards Bergami. It is in evidence before your lordships, that the terms of the diploma of the order run thus: "The colonel Bartholomew Bergami, baron of Francina, knight of Malta, and of the Holy Sepulchre of Jerusalem, equerry of her royal highness, shall be the grand master of this order; and his children, males as well as females, shall succeed him, and shall have the honour to wear this same order from generation to generation for ever." Then, my lords, comes this singular point, that although to her *protégé*, William Austin, her majesty grants the honour of being a member of the order, the succession to it is distinctly confined to his "legitimate children." From this distinction between the grant to Bergami and Austin, may easily be gathered the religious and moral character of the institution.

My lords, can any man account for all this,—can any man account for the elevation of Bergami—can any man account for the sudden honours which he received—can any man account for the order thus conferred upon him, with the peculiar circumstances which I have described, without entertaining,—not a suspicion of

the existence of an attachment on the part of her majesty to Bergami, but a conviction that her majesty was at the time of which I am speaking, under the influence of an *infatuated passion* for that person? I say, my lords, that I wish no man should vote for this bill, who does not believe that at the time when her majesty went on board the polacre, she was under the influence of an *infatuated passion*. On no other ground can her majesty's conduct be accounted for. The Queen's attorney-general, very ably and very ingeniously argued, that Demont's letters, in their natural sense, and without any supposed *double entendre*, were perfectly clear and intelligible; but that when once they were considered with reference to any supposed *double entendre*, they immediately became obscure and incomprehensible. I say the same thing with respect to her majesty's conduct, towards Bergami. Say that her majesty was actuated by an infatuated passion, and all the difficulty in accounting for her conduct vanishes. Without that admission her majesty's conduct towards Bergami is extraordinary and inexplicable; it is accountable on the ground of ungovernable passion alone, and I defy the wit of man to account for it on any other ground. Having now adverted to the sudden and extraordinary elevation of Bergami; having adverted to the reception of all his family, with the exception of his wife, into her majesty's household: having adverted to the mysterious introduction of the countess Oldi into her majesty's family; and having adverted to all the other circumstances which lead to the inevitable conclusion that her majesty was under the influence of an infatuated passion for that man;—I now come to another ingredient which is to be found in this case, as in all other cases of adulterous intercourse, I mean a constant *creation* of *opportunities*.—It has not been disputed, and it cannot be disputed, that, wherever her majesty and Bergami went, care was taken that their apartments should be as contiguous as circumstances would admit. This, my lords, has been in some cases attributed to her majesty's sense of personal danger but it took place in situations in which no personal danger could possibly be apprehended. Besides, if from this consideration, her majesty considered it necessary always to have a man near her, why should it be always this particular individual? Why should it be always Bergami? Why could not some other member of her majesty's suite share that duty with him? It further appears, on Demont's evidence, that a communication having been established between her majesty's apartments and Bergami's, it was her majesty's practice at night to follow Demont to her own room, when that room communicated with her majesty's apartment, and to lock the door; and that was her practice, not only at the Villa dEste, but elsewhere.

This leads me, my lords, to make a few observations on the evidence of Demont and Majoochi, respecting which so much has been said. I do think that if I am called upon to allow that suspicion attaches to the testimony of those persons, I am entitled to assert, that suspicion also attaches to a large part of the testimony that has been adduced on the defence; and particularly to the testimony of Hownam and Flinn. I am ready to make any allowance for Mr. Hownam, in consequence of the great obligations which he owes to her majesty; but none of your lordships who recollect the evidence which captain Briggs gave at your bar, but must feel, that, whether Mr. Hownam did actually give that advice to her majesty, which in conversation with captain Briggs, he said that he had given, or whether he merely wished to have the credit with captain Briggs of having entreated his royal mistress not to admit Bergami to her table, is a matter of no consequence; for in either case, Mr. Hownam's testimony becomes highly suspicious. My lords, I readily admit the probability that all the witnesses have given a colouring to their testimony favourable to the side of the case in support of which they have been respectively called. When once this inclination possesses a person, it is difficult perhaps to say where a witness is guilty of corrupt perjury. But, if your lordships will try Demont's testimony by Hownam's testimony, you will find this singular result, that in every point in which they can confirm and corroborate one another, they actually do so; and you will also find, that in several respects the testimony of Demont is more favourable to her majesty than that of Hownam. My lords all that I say of the evidence of Majoochi and Demont is, that I cannot consent to exclude their evidence from my consideration, either when it is confirmed by other testimony, or when it might have been

easily, but has not been, contradicted. This latter is a point of great importance; which I cannot too forcibly press on your lordships attention. Mere confirmation may be the result of combination and previous understanding; but the absence of contradiction, where contradiction would have been easy, is a species of corroboration which can be open to no such objection, and which is therefore entitled to the greatest weight.

And now, my lords, I wish to direct your attention to the evidence of what occurred on board the Leviathan. I do not quote what passed in the Leviathan with any view of proving that adultery was committed by her majesty on board that ship; in fact, whatever occurred in that voyage, can be of little consequence; but I quote it in confirmation of my assertion, that there was a system constantly pursued of creating opportunities. It appears from the evidence of captain Briggs, that previously to her majesty's embarkation in the Leviathan, that officer had made the arrangement which a sense of propriety would naturally suggest, namely, that her majesty's lady of honour should sleep on one side of her, and her maids on the other. But, on her majesty's arrival on board, that arrangement was altered by her orders; and the maids were removed, that her majesty might have Bergami near her. I do not mean to inquire whether or not her majesty intended to commit the act of adultery on that voyage in the Leviathan, but I say that the fact I have mentioned bears on the whole case, and speaks volumes as to the general system pursued by her majesty of creating opportunities for that purpose wherever she went.

Let us now, my lords, look back, and see how this question stands, before we come to the polacre. I call upon your lordships to attend to all the circumstances which I have enumerated;—I call upon you to attend to the sudden elevation of Bergami;—I call upon you to attend to the reception of all Bergami's family, with the exception of his wife, into her majesty's service;—I call upon you to attend to the mysterious introduction of the countess Oldi into her majesty's household;—I call upon you to attend to the admonition given to her majesty by one of her own servants, even at Naples, and to the occurrence at the Opera-house at St. Carlos;—I call upon you to attend to the admission of Bergami to dine at her majesty's table in his courier's dress at Belinzona, and other places, on the same journey;—I call upon you to attend to the rapid advancement of Bergami to the rank of equerry and chamberlain, and baron of Francina, and knight of Malta;—I call upon you to attend to all the marks of favour bestowed upon him by her majesty, to the purchase of the estate of the Barona, and to the celebration of St. Bartholomew's day as his festival;—I call upon you to attend to his constant, his eternal presence with her majesty, and his invariable attendance upon her on all occasions;—I call upon you to attend to the incessant and systematic creation of opportunities by her majesty:—I call upon you to attend to all these things; and I then ask if any one of your lordships can declare that they do not constitute—I do not say a judicial proof, but a moral conviction of an adulterous intercourse having taken place before her majesty's embarkation on board the polacre?—For myself, my lords, I can have no doubt that the facts which I have described approach as nearly as possible to judicial proof;—to the proof that an ecclesiastical court would require of the act of adultery having been committed. But, if they do not actually reach judicial proof, I am persuaded that they amount to a complete moral conviction; and that no other inference can be consistently drawn from those facts. With reference to this part of the question, I particularly press upon your lordships' attention, that it is not merely suspicion, but that the facts which we have been examining amount to a presumption, which carries with it a moral certainty of guilt. It was said at your lordships' bar, by one of the learned counsel for the defence, "We bring her majesty on board the polacre without taint or suspicion." I marked the care with which the learned counsel laboured that point; and very natural it was that he should do so. He felt that the polacre was a great obstacle in his path, and he wished to be assisted in surmounting it by carrying an unsuspected character, on the part of her majesty, up to that very moment. Now, I contend, my lords, and I think I have incontrovertibly shown, that her majesty's conduct up to that moment was attended by circumstances not only of the greatest suspicion, but of suspicion amounting to a reasonable presumption, if not to a moral certainty of guilt.

There are two other circumstances, my lords, prior to her majesty's embarkation in the polacre, which are well worthy of your lordships' attention. All her majesty's English suite left her service about this time, some on one alleged account, and some on another. I am ready to give credit to those individuals who say that their departure was occasioned by other circumstances, though it is certainly somewhat extraordinary that those other circumstances should all have occurred at that particular time. When people have a strong but not a very agreeable reason of one kind for not doing a thing, it is easy to make to themselves another and a more plausible reason for doing it, and even to impose that other reason on their own understanding as their real motive. The other remarkable fact, is, that those of her majesty's English suite have been called in her majesty's behalf, who remained the shortest time in her service. Thus, we have had lady Charlotte Lindsay who was with her majesty only twenty and odd days; but we have not had lady Elizabeth Forbes, who was with her majesty for four months, nor have we had lady Charlotte Campbell, who was with her, I believe, above forty days. How is it, also, that we have not had Mr. Burrell, who could have spoken to still later facts in her majesty's conduct than most of the other English witnesses? There is another very singular circumstance. Her majesty's faithful, old, and long-tried servant Sicard, who went with her from England, went home just as her majesty left Naples. Why was he so sent home? The man's answer upon that point is worthy of your lordships' notice. When he is asked, "Did you leave her royal highness at Naples?" his reply is, "No; her royal highness left me." At Naples, Sicard departed.* At Venice, Dr. Holland leaves her majesty. I allow that Dr. Holland was to have left her majesty at all events; but his departure was hastened. It was her majesty who intimated to Dr. Holland at Milan that he might as well travel for six weeks in Switzerland. Let your lordships look at these circumstances. Are they not most seriously important in their bearing upon the question? Is it not a striking corroboration of all that I have advanced, that her majesty should send Sicard to England; and that she should induce Dr. Holland to undertake a tour of six weeks in Switzerland; both at the very crisis of her connexion with Bergami; and the latter just after the period at which his family had been received into her majesty's service?

The hour of four having arrived, the House adjourned.

* It is but just to observe, that Sicard states in a subsequent part of his evidence, that his going from Naples to England was suggested by himself; but he was directed to be prepared to return at a moment's warning, and he never received any orders to return.

HOUSE OF LORDS.

Saturday, November 4.

The Earl of *Liverpool* continued—

I proceed, my lords, with the explanation of the motives which have influenced my mind in coming to the determination which I have formed on this important question. In the first place, however, I beg leave to call your lordships' attention to what I stated to be my view of the case, as far as I had considered it, at the end of the observations which I had yesterday the honour to address to the House. I conceived, on the view which I then took of the evidence, that two propositions were clearly established. First, that beyond all doubt, if we can ever draw any conclusion from circumstantial evidence, the criminal intention of the parties was unequivocally manifested, during the time that Bergami was still a courier. Whether that evidence amounted to a proof of the completion of the act of adultery, I will not now affirm. If your lordships believe the testimony of Majoochi and Demont, there is certainly evidence of the completion of that act; but as, from the nature of their testimony, it is in many respects not only not corroborated, but is incapable of corroboration, I will not dwell upon it as to this point. But, laying that aside, I contend that on the incontrovertible and admitted testimony of other witnesses, the fact has been undeniably proved of the criminal intention of the parties, while Bergami was yet a courier. My lords, I went a step further; and I stated this second proposition as likewise fully established, namely, that looking to the whole period, up to the period of the embarkation of the princess on board the polacre, in April 1816, there was such a

mass of evidence as amounted in my mind to a moral conviction that the act of adultery had been committed. Indeed, I am fully persuaded, that in the ecclesiastical courts decisions have been founded on evidence much less strong than that before your lordships as to what occurred previous to her majesty's arrival at Augusta. But whether that be so or not, I maintain that, taking all the facts which I yesterday detailed to your lordships into consideration, there is complete circumstantial evidence, sufficient to satisfy the mind of every unbiassed man, and to produce a moral conviction that the act of adultery had been committed by the parties in question, before their arrival at Augusta.

I now, therefore, take up the case at that period of time. But, before I notice that which will be the first main object of my observations this day,—I mean the affair at Catania, I wish to say a few words as to what took place on board the Clorinde. I do not state this as very material; but still I desire your lordships attention to the conduct of captain Pechell, in refusing to receive Bergami at his table, and to the kind of impression which that refusal appears to have made on her majesty. My lords, it seemed to me that there was considerable weight in the observation that if her majesty felt no consciousness of guilt, if she felt no sense of the degrading connexion which she was supposed to have formed, it is most extraordinary that, instead of hesitating, as she did, whether or not to comply with the request made to her by captain Pechell, she did not harbour a strong feeling of indignation at captain Pechell's behaviour, and make a remonstrance, as it was perfectly competent to her to do, to his majesty's government at home, against the conduct of a British naval officer, who had refused to receive at his table her majesty's chamberlain. But there is another view of the subject which ought not to be overlooked. This refusal of captain Pechell's must be considered still more important as affording a hint to her royal highness with respect to her future conduct. Was it possible, my lords, even if all had been innocent, pure, and unobjectionable in her royal highness's familiarity with Bergami, that this circumstance must not have brought to her mind the fact, that by-standers, and those respectable persons too, had some feelings of suspicion on the subject? I ask your lordships, whether, even as I have said, if the connexion between her royal highness and Bergami had been innocent, pure, and unobjectionable, this occurrence did not call on the princess, on every principle of duty, of delicacy, and of propriety, to conduct herself thenceforward to Bergami in such a manner, that no scandal should arise, either to herself or to the country?—Undoubtedly, this circumstance would have had a powerful operation on her royal highness's mind, if she had not been hurried along by a guilty passion.

I am now come to the case of Catania. In the first instance, I wish to direct your lordships' attention to the evidence on which that case is supported. I know it has been said, that it stands on the evidence of Demont only. But, if we look at the persons who composed the whole suite of her majesty at that time, we shall find, that there were only three individuals who could possibly know any thing of transactions such as these; namely, the countess Oldi, Demont, and her half-sister Mariette Bron. Of these persons, Demont has been produced, and your lordships must take her evidence for what it appears to you to be worth. The two others have not been produced; and I maintain, that this is a circumstance which ought never to be put out of your lordships' minds in judging of the merits of this case. If we can believe Demont, she has proved the act of adultery in many instances;—at Naples, at Genoa, at the house of general Pino. The answer, however, to this is, that Demont's testimony is so damaged, that it cannot be received to its full extent. Be it so for the present. I am ready, for argument's sake, not to dispute it. But in the case at Catania, Demont might have been easily contradicted. I recur to what I yesterday stated that I thought of Demont's and of Majoochi's testimony. I then stated, that when Demont's testimony was corroborated, as it was in many cases, by the testimony of Hownam and others, or when it was capable of being easily contradicted, and yet was not contradicted, I was decidedly of opinion, that it ought not to be rejected. Now, my lords, what was the case at Catania? The story told by Demont is particularly natural, and not likely to be invented. It is this:—that Bergami's bedroom having been in the first instance on the other side of the court-yard, he, in

consequence of indisposition, was brought over to the side of the house in which the princess slept, and lodged in a room which had been previously that of the countess Oldi, the countess being put into the room of the princess, with whom also slept the little Victorine; that on the succeeding night, Demont, who slept between the two rooms, heard the cries of the little Victorine, calling mamma, and the countess Oldi endeavouring to pacify her; and that in the morning, she saw the princess pass through her room from the room of Bergami, with the pillows on which she used to sleep, under her arm. —My lords, if that is to be believed, it affords the most complete and conclusive presumption of adultery. Demont says, that she is not certain if her half-sister, Mariette Bron, was in the room with her, but that she rather believes she was. That uncertainty may be some ground, however unsatisfactory, for not calling Mariette Bron. But there can be no ground for not calling the countess Oldi. She was present on the occasion. She is now in London. She is held to be forthcoming. She is here, ready to contradict Demont's statement, if it is untrue; and, as she has not been called to contradict it, your lordships have no reason whatever to disbelieve that statement. I say, therefore, my lords, that the countess Oldi, who might have been called to contradict Demont's evidence, not having been called, the fact of adultery at Catania must in all fairness be considered as proved.

My lords; I now come to the tent at Aum, and to what I know is considered by many persons as the most material part of the whole case,—I mean what took place on board the polacre; and certainly it is so in some respects, because it is a part of the case in which it is distinctly admitted, that on the main facts there can be no doubt. As my noble and learned friend, and my noble friend on the cross-bench have observed, it is extraordinary that neither Carlino, nor Camera, nor Sacchini, nor countess Oldi, nor Mariette, who might have been called by the counsel for her majesty to speak to this part of the case, have been examined; but, putting these suspicious omissions out of the question, I will state the facts as they now appear in the Minutes of evidence.—Before, however, I state these circumstances, I wish to advert to one occurrence which took place on the voyage outwards, and which, although not perhaps of any very great importance, is nevertheless not altogether undeserving of attention. It has been proved at your lordships' bar, that after the vessel left Tunis, Bergami's bed was brought from another cabin into the dining-room. The only observation that I will make on this circumstance is, that it appears very singular that, whenever any accommodation is to be made, it is always for Bergami. One would have thought it more natural, if the princess wished to have any person to sleep in the dining-room, which was next to her cabin, that she would have chosen one of the naval officers, who, from his professional knowledge and experience, would have been enabled to satisfy her curiosity as to the state of the wind and weather, the course of the ship, and such other things as her royal highness is said to have been anxious about. It would certainly have been much more natural that such a person should have been selected for the purpose than a mere landsman. On this, however, as on every similar occasion, Bergami, and Bergami only, was selected to be near her royal highness. Having stated this fact, I leave it to your lordships to attach whatever importance to it you may think it deserves.

We now come, my lords, to the question of the tent, or awning, or whatever you may please to call it, on the deck of the polacre, and of the tent on land, at Aum, and at some other places. Under the tent or awning on the deck of the polacre, and under the tent at Aum, and at some other places, a sofa and a bed were placed; and I assume as a fact, which has been clearly proved beyond the possibility of doubt, that at Aum, and at one or two other places on land, her majesty passed the time of rest alone in an inner tent with Bergami; and that on board the polacre she slept alone under the awning or tent with Bergami, generally, during the whole of the voyage home. There may have been some nights of exception. Whether there were or not is of no consequence whatever to the main argument. I also assert that her majesty did this without the slightest pretence of necessity. I am led to that conclusion on the grounds which I am going to state to your lordships. I am perfectly ready to make every allowance for the inconveniences to which persons are exposed on board of ship, and for all the circumstances of dif-

ficulty and annoyance to which they are occasionally subjected; but, still I contend it has been incontrovertibly proved, that her majesty and Bergami slept for above thirty nights (generally) under the tent on the deck of the polacre; and that without the slightest necessity or pretence of necessity.

In the first place, it has been assumed that there was no mystery in this arrangement. Even if it were so, I confess I do not see how that would make any difference in the conclusion to be drawn from it. But, my lords, I cannot agree that there was no mystery in it. If your lordships attended to what passed at your lordships' bar, I think you will say with me, that there has been a great deal of mystery, and a very unpleasant feeling on the part of her majesty's counsel on this particular point, through the whole of the proceedings. Her majesty's attorney-general, in the able and comprehensive speech in which he opened her majesty's defence, never mentioned the circumstance of the tent on board the polacre, although he must have been aware that it formed a most material part of the accusation against her majesty, and that it was evident, from the nature of the questions put by your lordships in the examination of witnesses, you considered it to be perhaps the most essential point. Mr. Williams half mentioned the circumstance. He never admitted it completely; but he undoubtedly reasoned upon it, as if it were true. I state this to prove that the counsel for the defence have no right to take this as a part of the case that was fully and fairly admitted. On the summing up of the evidence for her majesty, I at first thought that Mr. Denman admitted the fact; but in the continuation of that learned gentleman's speech on the next day, he appeared to me to throw some doubts upon it. The only advocate for her majesty who fairly grappled with the circumstance, and endeavoured to explain and justify it, was Dr. Lushington.

But is there no attempt at mystery on the part of the witnesses called for the Queen on this subject?—Lieut. Flinn tells us that at Augusta, when her majesty went on board, he had the direction of the ship, and made all the necessary arrangements with respect to the cabins for the accommodation of her majesty and all her suite. But, when Flinn is questioned as to this point of the tent, he tells us that he does not know where Bergami slept. At one moment, the vessel is so small, that he had full cognizance of every thing that passed; at the next moment, it would seem so large, that he did not know some of the most material things which occurred on board. When pressed on his cross-examination, he says he "believes Bergami did not sleep under the tent." Now, my lords, I put it to your lordships if it is probable that a person so circumstanced as Flinn avowedly was, being above thirty days on board that ship, having the responsibility for every thing, and knowing where everybody else slept, could be ignorant where Bergami slept? How, then, can it be asserted that there has been no attempt to make a mystery of this transaction?—In some degree the evidence of Hownam was also calculated to throw a doubt on the circumstance.

I say that the fact of Bergami's sleeping in the tent on board the polacre was, in a degree, extorted from him. It did not come out naturally, and freely, and clearly; and I can scarcely believe but that Hownam must have a much greater knowledge, and a much firmer conviction with respect to that particular fact, than he has thought proper to admit. For the reluctance which he betrayed on the occasion I know not how to account, if he believed the intercourse between her majesty and Bergami to have been innocent in its character.

Thus much, my lords, I have thought it right to say on the question of mystery. For one, I do not attach any very great importance to it, although I think it not wholly undeserving of attention. I return to the consideration of the question of *danger* or *necessity*; and I repeat that there was not the remotest danger or necessity which could lead Bergami and her royal highness to pass any one night, and much less a number of nights, together, under the tent on the deck of the polacre. My lords, I put this question to you. I do not ask what a woman of virtue and modesty would have done under the circumstances of the case. I ask what a woman who wished to keep up the appearance of virtue and modesty would have done? What were those circumstances? It was during the hot months; and at a time when the season was fine, and the weather generally calm; and her royal highness was naturally desirous to sleep on deck; partly on ac-

count of the heat, and partly to avoid the stench and other inconveniences below. It must be recollected, that this polacre was not a passage boat, filled with a number of strangers, all under the control of the captain; and that for a few hours, or even for a long voyage. It was a vessel which had been hired by her royal highness expressly for her own use and that of her suite; and in which every arrangement was of course made for her accommodation. To compare the inconveniences of such a vessel with the inconveniences of a packet-boat from Harwich to Helvoetsluys, or even with the inconveniences of an East Indiaman on her homeward voyage, is wholly out of the question. Well, my lords, in this vessel, and under those circumstances, her royal highness chose to sleep on deck. I again ask, what would have been done by any woman, not of virtue or modesty, but who wished to maintain the appearance of virtue and modesty? Her royal highness had on board with her, her lady in waiting, and her two maids. What prevented her royal highness from having the former to sleep with her under the tent; or at least on alternate nights with one of her maids? What was there to prevent Hownam, or Flinn, from having his cot on deck, for her royal highness's protection? In fact, Flinn told us that he did sling his cot on deck, and that he did sleep there generally on the voyage homeward. If on any nights, why not on all? Why was not an arrangement made between Hownam and Flinn, both seamen, that one or other should sleep on deck every night for her royal highness's protection? My lords, I will go further. If there was no harm in any man's sleeping in the other bed under the tent with her royal highness, why did not either Hownam or Flinn sleep in that bed? I do not say that this should have been done. In point of delicacy, it would certainly have been most improper. But if, as it has been contended, there was no harm in any man's sleeping in the second bed under the tent, it would surely have been more advisable and natural that Hownam or Flinn should sleep there than Bergami. It has been declared that it was absolutely necessary for her royal highness's protection that she should have some male attendant to assist her in the event of a squall coming on, or of the vessel's shipping a sea, or of any similar accident. But, as Hownam has stated in his evidence, a landsman could have been of little use under such circumstances. The only person competent to lend effectual aid would have been a seaman. Neither Hownam nor any person could have occupied a place in the tent without exciting the strongest suspicion. But why was Bergami selected for that duty? Of what use could Bergami have been to her majesty more than Demont, or Mariette, or any female? Indeed, the very circumstance of the height of Bergami, his size, and his being a landsman, render it probable that Bergami was the individual on board who could have afforded the least assistance to her royal highness, in the event of any accident. I say, then, my lords, it is impossible that the slightest shadow of a pretence of necessity can be advanced for Bergami's sleeping under the tent, with her royal highness either at sea, or on land.

But it has been said that there was a hatchway which led into the tent from below, and that it was always open. My lords, it is in evidence before you, that that hatchway was not always open. But, admitting for argument's sake, that it was always open, it does not appear that this would be of any great importance. Mr. Hownam tells you that on several occasions he went into the dining-room, at ten or eleven o'clock, for the purpose of going on deck, not knowing that the tent was closed. It thus appears, that any one might have been in the dining-room, without knowing whether or not the tent was closed. Mr. Hownam states that he was sometimes so. He also states, that the bed in the dining-room was rolled up; and that he was not aware that any person slept in the dining-room on the voyage homeward. On one occasion Majoochi appears to have slept in the dining-room after the tent was closed; but, generally speaking, none of the people on board the polacre were to be found there at that time. It has been said, that her royal highness and Bergami were not undressed. It appears that they were not undressed when they went in and came out of the tent. It has been proved, that in eastern countries it is the custom for persons to sleep dressed; and, if it were not so, what obstacle could this circumstance afford to the commission of crime, to persons who were confined whole nights in the same room or same tent?—It has been also said, that the tent was a place very unlikely to be chosen

for the commission of the crime imputed to her royal highness. Now, I ask your lordships whether you believe that, in fine weather and a calm sea, a tent such as has been described, closed all round, and fastened down to the deck with ring-bolts, was not a place in which the crime of adultery might be perpetrated with as much facility as in any place which could be selected? I put the question to any man of common sense and moral feeling; to any man who knows what female decency or delicacy is, whether it be possible that any woman could pass—not one night by accident—but above thirty nights together, in a close tent, so constructed, with a man (that man not her husband), without producing a moral conviction on his mind, either that the crime of adultery had been then committed, or that that crime had been committed by the same parties so often before, that the desire to repeat the offence did not exist? My lords, I know not what excuse may be found in any deviation from the ordinary course of nature; but, morally speaking, it is impossible that two parties should be so situated, without producing a conviction on the mind of every unprejudiced man that an adulterous intercourse had been carried on.

These observations, my lords, apply equally to the *tent* on land. Indeed, they apply more strongly. There, there was no hatchway. There, it is true, there was an outer tent, in which two servants slept; but where was the necessity for Bergami's sleeping with her royal highness, in the tent within? For what purpose was that? On what pretence of affording protection could it take place? Her royal highness and Bergami were inclosed in the inner tent, while Carlino and Theodore slept in the outer tent. If Bergami was considered as so superior a protector, why did he not sleep in the outer tent, and why was not one of her royal highness's women ordered to attend her within? Is it possible that your lordships can consider what female delicacy is, and believe that any woman would so place herself without entertaining a criminal intention? What woman would allow herself to be so situated with a man, whom she had not admitted, or whom she did not mean to admit to the last intimacy? Is it in human nature? Are there not circumstances *that must have occurred*, which could not have been endured by any woman, not merely of virtue and delicacy, but who was not gross in the extreme, unless there either had been, or was intended to be, the most intimate connexion between the parties? The case of Aum is likewise of importance, as it negatives the *exclusiveness*, if I may say so, of the case of the polacre. It cannot be said this never happened but at sea. It happened on shore as well as at sea. Some persons make a distinction between a tent and a room. For my own part, I can see none. I appeal to those who have spent their lives in camps, if there is any difference in this respect; and if there are any difficulties in the case of a tent, which do not exist in that of a room? I appeal to the common sense of mankind, if, when they find individuals of different sexes so inclosed, they can draw any inference from their being inclosed in one way, different from that which they would draw from their being inclosed in another? But at Aum it was said that the princess, having travelled all night, must of necessity repose in the day; and that she went into the tent tired and exhausted. Now that tells both ways. If ever there can be circumstances in which a woman of modesty and delicacy would be peculiarly anxious not to put herself in the power, or even be exposed to the perpetual presence, of a man, it is when she is in such a state of fatigue and exhaustion.

My lords; I have no difficulty whatever in stating, and I confidently rest on this part of the case, the facts of which cannot be contradicted, that the circumstance of her majesty's sleeping with Bergami for so many nights under the same tent on board the polacre at Aum, and at other places, amounts, not merely to a moral conviction, but to a distinct *judicial proof* of guilt. I do not believe that there is any court in the world which would hesitate for a single moment so to declare it. I say this, without reference to any of the preliminary circumstances; because I am perfectly ready to assert, that even if the statement were true which was maintained by the learned counsel at the bar,—even if her majesty and Bergami had come to the tent in the polacre without any taint or suspicion, yet, the circumstance of their having slept there, as I have described, would be quite enough to establish the crime of adultery. But, my lords, I entered yesterday into a history of all the previous circumstances. I then said, that I had established the ex-

istence on the part of her majesty, not merely of a *suspicious attachment*, but of an *infatuated passion* for Bergami, before her arrival at Augusta. I now repeat that declaration; and I call upon any man to lay his hand on his heart, and, looking on all that has passed, to say whether he does not believe it to have been unequivocally proved, that, before the occurrence of the *polacre case*, her majesty was *vehemently in love with* Bergami? I will not say, that this circumstance in itself implies criminality. But when we also find a disposition to *create opportunities* for being together in private manifested on every occasion, shown in all their acts, the greatest as well as the least (and there is often more to be deduced from the minor than from the great circumstances of a case), I cannot say that there remains in my mind the slightest doubt on the subject. If such is not to be the inference that we are to draw, then, my lords, the decisions in our law-books, the judgments in our Ecclesiastical Courts, and the sentences of divorce which your lordships have pronounced in this House, comprehend a code of the *greatest cruelty, oppression*, and *injustice*.

I now conclude my observations on what took place under the tent on board the polacre, and under the tent at Aum. I consider those two cases together as affording demonstration of the commission of the crime of adultery. Each, by itself, would, in my opinion, be quite sufficient for that purpose; but combined and coupled with the preliminary circumstances to which I have adverted, previous to her majesty's arrival at Augusta, they are irresistible.—Before, however, I entirely close my remarks on the voyage to the East, I cannot help briefly referring to what took place at Syracuse. I yesterday alluded, to the celebration of Bergami's name-day at the Villa d'Este. We find the same incident occur at Syracuse. There, the feast of St. Bartholomew, the name-day of the chevalier, was again celebrated with every mark of pomp and rejoicing. The ship was illuminated, money was distributed among the crew, the company on board were feasted, and her royal highness walked up and down the deck, arm in arm with Bergami, the sailors shouting "Long live the princess," "Long live baron Pergami!" Now, really, my lords, I ask you whether you could have believed this possible, if it had not been distinctly proved in evidence? Would it have been credited, unless distinctly proved, that the princess of Wales, the consort of the Prince-Regent of England, would thus have appeared with another man, in the relation of wife to husband, or that she would have celebrated, in the manner in which she did celebrate it, with every circumstance of pomp and splendor, the birth-day of an individual, who, not twelve months before, had been in her service as a courier, and had waited behind her chair, and the chairs of her guests? My lords, if this was not a state of degradation unparalleled in modern times, and unexampled in modern manners, I am ignorant of what, in the history of human nature, can be termed degradation.

I will not detain your lordships by any very detailed observations on what follows. I fairly own, that the cases to which I have already referred, are those on which I principally rely for the justification of the bill which your lordships are now called upon to read a second time. Still, however, I must be allowed to say a few words on the case of Carlsruhe; for though, in consequence of the peculiar and unfortunate circumstances which attend that case, it is not one I would select on which to rest my vote upon the great question before us; yet I wish to say a few words upon it, because I am convinced that, on a fair balance of evidence, your lordships will find, that even the case at Carlsruhe has been proved.—Your lordships all saw Barbara Kress at your bar. You heard her give her evidence. You had the opportunity of observing the manner in which she gave her evidence, and I am sure you will agree with me, that a more fair, natural, and ingenuous testimony, was never given by any witness in the world. There is one circumstance in Kress's testimony which I beg your lordships particularly to remark;—it is, that she told the story of what had occurred at the inn immediately after it happened. From this it is clear that her evidence in this place was not made up for the occasion. She was cross-examined at your lordships' bar as to the houses in which she had formerly lived, and she gave the whole history of her life in the most fair and artless manner. Your lordships also know, that a gentleman, an agent for her majesty, was dispatched, and very pro-

perly dispatched, to Carlsruhe, after the close of the case for the bill. No doubt that gentleman, in the discharge of his duty, made every possible inquiry into Kress's conduct and character. But not a word was subsequently uttered by her majesty's counsel, not the slightest attempt was made to impeach Barbara Kress's character. I have a right, therefore, to assume that her character is as unimpeachable as her testimony appeared to be pure, fair, and ingenuous. Now, my lords, what was the nature of the contradiction which it was endeavoured to set up to Kress's testimony? In the opening case for her majesty, it was said, that every moment of the time which her majesty passed at Carlsruhe, would be accounted for. For that purpose Vassali was called.—On his examination it appeared, that on the second night, which tallies with Kress's account, Bergami was taken ill at court, and was obliged to return to the inn, accompanied by his sister.—Vassali, with a view to refute the evidence of Kress, said, that when her majesty returned, he returned with her; that he was with her the whole of the evening; and therefore that she could not have been with Bergami, as Kress had deposed. My lords, the peculiar correctness of Vassali's memory on this particular subject is remarkable; he recollects every thing that took place at Carlsruhe, although he can scarcely recollect any thing that took place at Munich. I am willing to admit that there are some circumstances which make a much stronger impression on the mind than others; but I own that I do not see what there was in the visit to Carlsruhe to make a stronger impression on Vassali's mind, than in the visit to Munich; the first was only a visit to a duke, while the last was a visit to a king.—But, not to dwell on this point; not to consider whether it was probable that Vassali would remember so thoroughly in one place, what he had forgotten so easily in another; for I should be sorry unnecessarily to impute improper motives to any man;—I will undertake to say, that it is next to impossible, that her majesty, having dined and spent the whole day at court, should go home, without ever retiring to her room. I put it to the common sense and common feelings of your lordships, if such a thing is at all probable. If, however, your lordships believe that her majesty did retire, you have a confirmation of Kress's testimony; she being, let it be recollected, a witness wholly unimpeached; although every opportunity was afforded for impeaching her character, if it had been liable to impeachment. My lords, on a fair and impartial review of all these circumstances, I am prepared to declare my conviction, that any judge, charging a jury, would point out this particular case as one on which they ought to find a verdict of guilty. I really do not see, my lords, how the absence of the chamberlain of the grand duke of Baden can be considered at all material as affecting this part of the case. How the baron d'Ende can possess any knowledge of the truth or falsehood of the facts sworn to by Kress, I am quite at a loss to conjecture. But I am still ready to admit that the baron d'Ende's absence is deserving of some consideration. I sincerely regret it, and, adverting to that circumstance, and to the consideration that Kress's testimony, however unimpeached, is yet only the testimony of a single witness, I will not rest further upon this part of the case.

I now come to another case, which certainly deserves some notice—I mean the occurrence at Scharnitz. The case at Scharnitz, as it stands at present, is different from what it was, either according to the opening of the attorney-general in support of the bill, or according to the opening of her majesty's attorney-general in her majesty's defence. If that case had turned out to be as it was stated by the attorney-general in his opening in support of the bill, undoubtedly it would have established the presumption at least of adultery. If it had turned out to be as it was stated by the attorney-general for her majesty, in opening her majesty's defence;—if it had been proved, that while at Scharnitz all the attendants upon her majesty were in continual motion, and busily employed in packing up for the journey,—then, undoubtedly, the original allegation would have been very much, if not completely, shaken.—But what, my lords, are the circumstances of that case, as they appear in the Minutes of Evidence? It there appears, that on the arrival of her majesty and her suite at Scharnitz, some defect was discovered in their passports; and that Bergami and Vassali were sent back to Inspruck, to rectify it. There could have been no necessity for any packing up, either during their absence; or on their return;

because the baggage was never unpacked. Nothing of consequence was taken from the carriages; which were left at the barrier, in readiness to proceed on the journey.—It appears, that on that night her majesty caused Demont to sleep on a bed which was placed on the floor in her majesty's room. In the course of the night Bergami (accompanied by Vassali) returned from Inspruck; in consequence of which, Demont was directed by her majesty to carry her bed into another room. Bergami returned, according to Mr. Hownam's testimony, at about half-past one o'clock. By Vassali's account, it was not until between two and three o'clock. It appeared, however, that her majesty did not set forward on her journey until broad day-light, which was about seven o'clock in the morning.

In the first place, my lords, this observation naturally occurs. If her majesty required the protection of a man in her room, why was Demont selected on this occasion? Her majesty is stated by some of the witnesses to have been not undressed. There was Schiavini, Hieronimus, Hownam, William Austin, in the house; but, in the absence of Bergami, Demont, it seems, was considered a sufficient protector. When Bergami was not with her, she did not require the presence of any man. What is to be inferred, but that it was not the protection of a man which her majesty required, but the company of Bergami? My lords, I cannot look without strong suspicion on the circumstance that, when Bergami and Vassali returned from Inspruck, Demont, who was asleep, was ordered to get up, and to take her bed, and remove it into another apartment. It is undoubtedly true, that Vassali swears that after his and Bergami's return from Inspruck, they took no rest whatever. But it is certainly somewhat extraordinary, that men who had been travelling the whole of the previous day, and through the greater part of the night, and who had just returned from a hasty journey;—men, who had no business to keep them up; who had nothing whatever to do; for, as I have already observed, there was nothing to pack, and the only persons employed were the country-people, who were engaged to clear away the snow;—it is certainly somewhat extraordinary, that men so situated, should not have availed themselves of the opportunity of repose, simply because they had served in campaigns, and had led a military life!—I say, then, my lords, that the case at Scharnitz, though it does not establish the charge of adultery, affords, nevertheless, strong ground of suspicion.

The occurrences which are alleged to have happened at Trieste, resting on the evidence of a witness whose testimony has been in such a material point contradicted, must be considered as disproved. —I will now make a few observations on the indecencies and familiarities which, on the testimony of so many witnesses, appear to have taken place at the Barona, and at the Villa d'Este. In doing this, I will throw out of my consideration any evidence on which a fair doubt has been thrown, without inquiring too closely whether that doubt is well or ill-founded. No such evidence shall have any weight with me, in the vote which I am about to give. I have already said, that I discard the evidence of Cuchi, in support of the case at Trieste. I say the same with respect to the alleged occurrences on the journey from Rome to Sinigaglia. One word, my lords, on the nature of the contradiction which has been given to the testimony of Sacchi. Your lordships must have observed, that much stress has been laid on the circumstance of Sacchi's having changed his name—a circumstance of no great importance. It has been assumed also, that he was guilty of intentional falsehood and perjury in the reason which he assigned for having changed it. I really cannot discover this. I can discover nothing in this part of Sacchi's examination which might not easily have proceeded from a very natural hurry and confusion of ideas. He had no motive for misrepresentation on the subject; for he had freely admitted that he had changed his name several times. The assumption of another name on his journey from Paris was recommended to him on the ground of personal security; and, without having any intention to deceive, he might have easily confounded in his own mind other disturbances then existing in England with the occurrence which since took place at Dover. I agree that the evidence of Carlo Forti is completely at variance with that of Sacchi. Carlo Forti's evidence and Vassali's are likewise at variance with respect to the place at which he was hired. I do not mean, however, to say, that Carlo Forti's testimony can be fairly impeached by this latter circumstance; for it was very easy

for Vassali to be mistaken as to whether Carlo Forti had been hired as a servant at Milan or at Rome. I am ready, however, to admit upon the whole, that as the evidence stands, such a degree of doubt has been thrown on Sacchi's testimony, that I ought to reject it from my consideration, both as it respects the alleged occurrences in the journey from Rome to Sinigaglia, and as it respects the other facts of the case.

My lords; I now wish to direct your lordships attention to what other witnesses have stated, with reference to the scenes of indecent familiarity which took place at the Barona, and at the Villa d'Este. And here I must maintain, that if her majesty laboured under any disadvantage with respect to her defence in the commencement of these proceedings, that disadvantage has been much more than compensated by the extraordinary advantages she has since received. Her majesty has, in fact, had an advantage, never before, I believe, enjoyed by an accused person. Having heard all the testimony that could be adduced against her, she was then allowed any interval of time which she might think it expedient to require, to collect her own evidence, and the other materials for her defence. When this delay was first allowed, I heard the strongest opinions on the subject from professional men, who all protested that it must defeat the ends of justice, inasmuch as it would give the power and means of what is called manufacturing a case, against which no prosecution could possibly stand. It was, in truth, my lords, an immense advantage. How did it operate? It afforded her majesty's law advisers the opportunity of which they immediately availed themselves, of sending agents to Milan, and active agents they were no doubt, who very properly made it their business to inquire into the private life and character of all the witnesses who had been examined at your lordships bar in support of the bill; with a view of course, if possible, to contradict those witnesses, and to attach to them such circumstances of discredit as might induce your lordships to reject their testimony. In two instances, the evidence which these agents procured, either repelled or threw considerable doubt on the testimony that had been given. But your lordships must recollect that, notwithstanding all the opportunities afforded, and all the efforts made of this description, there are no fewer than seven witnesses, who all swear to circumstances of indecent familiarity, the character of not one of whom has been tainted or impeached by the evidence adduced on the part of the defence. Some attempt has indeed been made to diminish their credibility, by its being said that they never mentioned the circumstances respecting which they gave their evidence, until long after their occurrence. To four however of the seven, the question was never put whether they had ever before communicated the circumstances to which they then swore; and one of the other three distinctly declared in evidence, that he did tell what he had observed to the factor's son, immediately. That factor's son might have been produced at your lordships bar, to give his evidence in contradiction to the statement of that witness; but your lordships have seen nothing of him. Now, I ask your lordships whether you will lay out of your consideration the whole body of evidence resulting from seven unimpeached witnesses, who swear positively to strong and important facts? Would such a thing be done in any court of justice in the world? More especially, would it be done when every means had been afforded to the accused party, but in vain, of attacking the character and the credibility of those witnesses? Some of the facts stated by those witnesses are most material, and are highly deserving of your lordships notice. There is the evidence of Galli, and of Finetti. Both of those witnesses, and especially the former, deposed to many circumstances, which, if they were at all capable of contradiction, other persons might have been brought to contradict. Galli is not a common servant. He has been the principal waiter at the inn at Barlisina, near Milan, for five years. He does not swear to any occurrence which is rendered in itself improbable by the previous conduct of the parties. The occurrences which he relates are such as would naturally grow out of the manner in which it has been proved, that they behaved towards each other before that time. Some of the circumstances of improper familiarity which Galli describes, took place in the presence of eight or ten other persons; all of whom might have been called, but none of whom have been called, to contradict him? Will your lordships then, I again ask, consent to throw such a body of unimpeached evidence out of

your consideration? I do not say that, if the whole case stood on the testimony of these persons, I should not feel some pain and uneasiness in bringing my mind to a decision on that testimony alone. But your lordships should recollect that all these witnesses swear to facts, which, previous circumstances that have been established at your lordships bar, render, not only not improbable, but in the highest degree probable; and therefore, although perhaps I should not feel myself warranted in resting on their evidence alone, neither do I feel myself warranted in throwing that evidence altogether out of my consideration.

I proceed, my lords, to finish my observations on the only remaining circumstances of this important case to which I intend to solicit your lordships attention; —I mean the scenes which are represented as having taken place at the Barona, and at the Villa d'Este. It is with great pain and reluctance that I bring myself to remark on any private amusement in which her royal highness was pleased to indulge; but really for the princess of Wales, the wife of the Prince Regent of England, to be performing in a theatre, characters such as have been described, not before her equals in rank, but among her own servants, and before two hundred spectators, who were strangers to her, appears to me to be such an extreme degradation, that I am absolutely astonished how her royal highness could ever consent to submit to it. It was not at the Villa d'Este alone that exhibitions of this nature took place. Similar scenes of impropriety occurred at the Barona. I am aware, my lords, that there is a great deal of contradictory evidence as to the character of the amusements at the Barona; but even on the testimony which has been produced in favour of her majesty, there is strong reason to believe that there existed considerable objection and disinclination on the part of the respectable inhabitants in the neighbourhood, and who were no doubt disposed to pay court to her majesty, to attend them. When Vassali is asked whether the wives of the prefect Tamasia and the baron Cavaletti were ever present at the balls at the Barona, he says, "Yes; but he thinks not their daughters." When he is further asked whether his own family were ever present at those balls, he replies in the negative, and endeavours to account for it by their not having been presented to her majesty.

And here, my lords, I beg leave to make a few remarks on what has fallen from a noble earl opposite (Grosvenor) as to the exclusion of the wife of Bergami from her majesty's service. The noble earl says, that there is nothing extraordinary in this exclusion. My observations, I request the noble earl to recollect, have been directed not to the simple exclusion of Bergami's wife from her majesty's service, but to the inclusion (if I may be allowed the term) of all Bergami's family in her majesty's service, with the solitary exception of his wife. "But," says the noble earl, "it is a very common occurrence in hiring servants, to feel a reluctance in engaging both a man and his wife; and it frequently happens, that where the husband is hired, an objection is made to taking the wife, and that she is not hired." Certainly. Nothing can be more natural, or more usual. But what was the situation of Bergami, and his wife and family, with reference to her royal highness? Not only was Bergami's wife not admitted into her royal highness's service, although all the rest of his family, were admitted; but it appears from the evidence that she had never been even seen at the residence of the princess when her royal highness was there; that she never visited her husband at such a time; that she was never at any of the entertainments given by her royal highness; nay, that on one occasion, when she happened to be at the Barona on the sudden arrival of her royal highness, she was obliged to run out of the way as fast as she could. I say, my lords, that additional importance attaches to this cautious and constant exclusion of the wife of Bergami, when we recollect that all the rest of Bergami's family had been introduced into the princess's service in some capacity or other; one sister, in the high situation of a lady of honour; the other in the low situation of a maid; one brother as a chamberlain and equerry; the other, as a footman; and the nephew, as a stable boy. What fair comparison, therefore, my lords, can there be between this case and that alluded to by the noble earl, in which, when a husband and wife present themselves to be hired in your lordships families, it happens that the one is engaged, and not the other? A wife may certainly not be taken into the same service as her husband; but even in any instance of that kind which has fallen under my observation, I have never found

that it has been considered as objectionable, or as any sin, for the husband occasionally to receive a visit from his wife. But in no instance was Bergami's wife ever seen at the Barona when her royal highness was there.

Let me now recall your lordships attention to the various leading features of this great and important case. In the first place, my lords, you have it proved by evidence, that a great degree of familiarity between her majesty and Bergami, then a *menial servant*, began at Naples. You have it proved by evidence, that that familiarity continued, and was increased at Genoa, to an extraordinary height. You have it proved by evidence, that the relatives of Bergami were introduced in numbers into the service of her majesty. You have it proved by evidence, that not only were his male relatives brought into her majesty's household; but that his sister, the countess Oldi, was introduced in a manner so mysterious, as to excite the strongest suspicions with respect to the motives of that introduction. You have it proved by evidence, that Bergami, while still a courier, dined at her majesty's table, and in his courier's dress. You have it proved by evidence, that in course of a few months, he was created her majesty's equerry and chamberlain; that honours and favours were lavishly bestowed on him; that he was raised to the rank of a baron, and a knight of Malta; that subsequently the grand mastership of a newly instituted order was conferred upon him; and that an estate was purchased for him by her majesty, and called by his name. You have it proved by evidence, that on all occasions a constant system was pursued of *creating opportunities* for the commission of the act of adultery. What then, I ask, is the natural inference from all this, but that the crime of adultery has been committed? My lords, it has been said, "Why did not Demont prove more?" The reason is obvious. How could she? She has herself most satisfactorily accounted for her not having been able to prove more; for she swears that it was her majesty's usual practice, when she dismissed her attendants for the night, to follow them to the door, and to lock them out. This my lords, sufficiently accounts for more not having been proved.

My lords; when we take other circumstances into our consideration; when we look, for instance, at what took place at Syracuse on the celebration of Bergami's birth-day, can we entertain any doubt as to the nature of the connexion between her majesty and that individual? It has been justly observed by my noble and learned friend, and by my noble friend on the cross-bench, that this case is not to be altogether judged by a reference to the insulated facts which have been proved in evidence; but that a main and leading inference must also be drawn from the singular relation which appeared to exist between the parties; and which was incompatible with any other state of things than one of criminal intimacy? that mysterious relation, for instance, which is manifested in the expression, full of meaning, although it falls out simply and naturally, in Demont's letter to the Queen, where she desires to thank "her royal highness and the baron," for their kindness. Can your lordships hesitate for a moment to draw a moral conclusion from all these circumstances? But when we add the fact of her majesty's having reposed under the tent with this man for thirty, or twenty, or ten nights (for the number is immaterial) can any inference be drawn from that fact—are there any human means of accounting for it, unless by the violent passion entertained by her majesty for Bergami; a passion which sought to create every possible opportunity for its gratification? Those opportunities were created; and I maintain that the only inference, in law and in fact, is, that the crime was committed. On this view of the subject, my lords, I am perfectly ready to decide as if I were in a jury-box; and to declare that if ever there was a case of adulterous intercourse clearly and fully established by circumstantial evidence, it is the case before your lordships.

I now come to some other parts of the question, which, perhaps, belong more properly to another stage of the bill; but, as the noble earl opposite so immediately referred to them in his speech, I cannot pass them by without adverting to them. First, it is objected that this bill is a bill of pains and penalties. I allow that a bill of pains and penalties bears a bad name; one that carries something harsh and severe in the very sound of it. But let us look at the real nature and consequences of the bill. Is this bill in its effect more penal than the ordinary divorce bills which your lordships are constantly in the habit of passing?

It may be said, that in those bills the accused party has certain advantages; of those I will speak hereafter; but I maintain that there is nothing in the present bill which will affect her majesty more than any private individual would be affected by the operation of an ordinary divorce bill. When the wife of any of your lordships, or of any of your lordships ancestors, has unfortunately been placed in such a situation, as to become the object of a bill of divorce, has she not been equally degraded in proportion; has she not been equally deprived of her rights, her prerogatives, and her privileges; has not her marriage been dissolved; has not the name which she has dishonoured and disgraced been taken from her, precisely on the same principle as that on which it is proposed by the present bill to degrade her majesty? If the guilt of her majesty appears to your lordships to be satisfactorily proved, I do not see any hardship, any cruelty, any thing unconstitutional, any thing contrary to the law and practice of parliament, in passing the bill before your lordships, any more than in passing an ordinary divorce bill. "Oh! but," it may be said, "in an ordinary divorce bill there is always the previous decision of an ecclesiastical court." To that I reply, in the first place, that the decision of an ecclesiastical court is not always thought necessary, for that the decision of an ecclesiastical court has not always preceded the passing of a divorce bill. Your lordships have passed divorce bills without the previous interference of an ecclesiastical court. I allow that it is a wise general rule to have the previous decision of an ecclesiastical court where it can be had; but I deny the absolute necessity of having it. The general principle is that when your lordships can obtain the previous decision of an ecclesiastical court, you require it; but there are cases—of which this is one—where that decision cannot be had; and then it is not considered essential. It may also be said, that in ordinary cases the accused party would have the right of recrimination; and that it is very hard that her majesty should be deprived of that right. But, my lords, I deny the existence of the right in the present instance. I deny that the operation of the bill is any hardship on her majesty in this respect. This, my lords, is not an ordinary case. The situation of her majesty is one which she voluntarily chose. The Queen of England is not a private individual, but a public character. As she has peculiar privileges and dignities, so she lies under peculiar responsibilities. In becoming the wife of the heir apparent, her majesty knew that a breach of her conjugal duties would subject her, except under the technical difficulties which the peculiar circumstances of this case present, to the punishment of death. When, under these circumstances, an endeavour is made to stigmatize a bill of pains and penalties, I have a right to say, that it is not more objectionable in its principle,—that it is not more severe in its operation,—than those bills which your lordships are in the habit of passing every day. In those bills, punishment is frequently visited upon injured individuals, who are not themselves the aggressors; but who have no opportunity of retaliation, and who are unable to resist the power by which they are oppressed; being upheld neither by the influence of high rank, nor by the support of popular opinion. I say then, my lords, that if you consider the alleged crime to have been satisfactorily proved, and I am sure you will give her majesty the benefit to which she is entitled, of any doubt that you may entertain on the subject, there is no hardship, there is no cruelty, there is no injustice, there is nothing unconstitutional, or contrary to the law and practice of parliament, in agreeing to the bill now before your lordships.

But a noble friend of mine, who spoke from the gallery, has argued on the question of the expediency or inexpediency of the measure. Of course, my lords, in what I am about to urge on that question, I address myself solely to those noble lords who think with me that her majesty's guilt has been satisfactorily proved. Every man who believes that her majesty is guiltless, or who is of opinion that her guilt has not been sufficiently established, is bound in conscience to vote against this bill. It is to those noble lords only, who think that her majesty's guilt has been satisfactorily proved, but who consider a bill of Pains and Penalties to be uncalled for and inexpedient, that I now address myself.—I ask them, while on the one hand they look at the inconvenience which they imagine would result from agreeing to the second reading of this bill, to look, on the other hand, at the inconvenience which would result from rejecting the bill. After the accused party has been heard at your

lordships' bar; after the investigation has been so fully entered into; after issue has been joined as to the facts of the case; consider the evil of rejecting the bill, if your lordships believe her majesty guilty. What can be the operation of such a rejection, but a *triumph of guilt;* under circumstances the most fatal to all those moral considerations which your lordships are bound to respect. Let me entreat you, my lords, to reflect on this subject in all its bearings. Consider that the Queen of England cannot retire from your lordships' bar as a private individual would retire. An humble individual against whom a similar charge might be brought, and who might be acquitted, either by a technicality in form of law, or by a want of satisfactory evidence, would be amalgamated and melted down into the mass of general society. But can it be so with her majesty? If you consider her to be guilty of that which is laid to her charge, and yet refuse to pass this bill, she is then Queen of this country, while in the opinion of so many of your lordships her character is tainted with crimes of the most heinous and disgraceful description;—crimes, which nothing but the existence of certain technical difficulties prevent from amounting to high-treason. Good God! I remember a case that occurred some years ago of a criminal intercourse between a lady and her coachman, in which a very powerful sensation was produced on the public mind, not merely from the heinousness of the offence itself, but in consequence of the grossness considered as incidental to the relative condition of the parties. The lady was not only found guilty of adultery, but the crime was generally considered to be greatly aggravated, and the lady herself to be still more degraded, by having descended to an intercourse of that nature with her own servant. How much greater the difference of rank between her majesty and a courier! My lords, I do not wish to prejudice the cause of the Queen by this comparison; but, if your lordships believe her majesty guilty of the offence with which she is charged; if you believe that she has been guilty of a criminal intercourse with her courier; if you believe that the attachment which it has been proved existed on the part of her majesty towards that individual was indulged, until it ended in the perpetration of the crime of adultery;—then, my lords, I put it to your moral feeling, whether you can allow a person who has been proved guilty of conduct so gross and degrading, to remain here, enjoying all the rights, privileges, and prerogatives of the Queen of this country, instead of marking her crime with the reprobation and punishment for which it so loudly calls?

Admitting, my lords, that we are so situated, that we are in some measure compelled to make a choice between evils; I say, that in this case, as in most cases, the straight-forward course is the most expedient to pursue. There may be inconveniences, my lords, in going on with this bill; but, if you believe her majesty guilty, you are bound by every just and moral consideration not to stop here. I say, let the consequences be what they may, if you believe her majesty guilty, you are bound to agree to the second reading of this bill. A noble earl alluded to the clamour which has been raised on this subject out of doors, and to the public discontent and ferment which the adoption of the measure would create; and the counsel at your lordships' bar very justly adverted to the attempts made by seditious and disaffected men to take advantage of the popular feeling which has been excited, and to convert it into the means of effecting their own infamous purposes.—Undoubtedly, my lords, this is too true. Undoubtedly, in times like the present, every public misfortune, every supposed public grievance, is laid hold of with eagerness by those whose object it is to overthrow the constitution of the country. It would be most unjust to lay this at the door of her majesty, or to suffer her cause to sustain any prejudice in consequence of it. Would to God, however, I could say that her majesty has preserved herself free from all participation in the acts of those who evidently wish to avail themselves of the peculiar and unhappy circumstances of her situation, for the purpose of furthering their own criminal views! But, can we look at the answers which have been returned to the addresses presented to her majesty, and say that any woman, conscious of innocence, would ever have written, or authorised, or adopted such answers? Would not the true line for her majesty to adopt have been that which she actually did adopt in her answer to the first address which was presented to her? In that answer, her majesty expressed her consciousness of innocence,

—declared her readiness to meet her accusers, but added, that she could not allow her cause to be mixed up with any political or party question. Unfortunately, her majesty has since admitted to her confidence persons who have given to her whole conduct the air of its arising out of the audacity of guilt, rather than out of the consciousness of innocence. Far be it from me to say, that any prejudice should be excited against her majesty on that account, which might in the least interfere or weigh in the decision of the great question before your lordships; but, after what the noble earl dropped on the subject of popular clamour, I would not allow this part of the subject to pass entirely without remark. The only observation which I wish to impress on your lordships is this: that if you believe her majesty guilty, and that if you believe your not proceeding with this bill will give a triumph to guilt, no base principle of fear ought to prevent the firm discharge of your duty.

The noble earl who last addressed your lordships, made a personal appeal to me, with regard to my right or intention of voting on this occasion. I beg leave to say a few words in answer to the noble earl. It is a question which, as your lordships may suppose, cannot have escaped me. I have carefully referred to the conduct, on bills and measures of a kind similar to the present, of those who have formerly had the honour to fill the high offices of the state; and I find that it has never been considered consistent with the public duty of a peer, although holding a high official situation, to abstain from exercising his undoubted right of expressing his opinion, and giving his vote in this House, on a question like this now before your lordships. My lords, has it ever occurred in the case of an impeachment, to which the government of the day has been a party, that the members of that government have abstained from giving their opinions and votes in parliament? There is a recent instance in point. I remember in the case of impeachment of the father of my noble friend near me (lord Melville), some of the ministers of that day were managers of that impeachment; the Attorney and Solicitor-general of that day assisted in the management of that impeachment; yet none of the peers who were ministers, thought themselves thereby precluded from exercising their right of voting in parliament. Substantially, I say, that the present case is the same; and on a question of such high public importance, I will not divest myself of my right as a peer, not only to assert my opinions, but by my vote to sanction the opinions which I feel it my duty to maintain. I trust my motives will not be mistaken;—and I rely on the opinion of your lordships, and of the country, to do justice to those motives.—My lords, we have all a most important duty to perform. I hope that in the decision of this great question, not a single vote will be given either from fear, from influence, from affection, or from faction. I trust that every noble peer will pronounce his judgment from the bottom of his heart; and that he will be actuated by no other consideration than the impression made upon his mind by the evidence which has been heard at your lordships' bar. I believe the world will do justice to your lordships decision, whatever that decision may be. I have the highest confidence, and I am sure that the country has the highest confidence, in the wisdom and integrity of this House. Like all other tribunals, you now stand before that highest of all human tribunals, public opinion. By your acts you will be judged. I am persuaded that if you give an honest vote on this occasion, whatever that vote may be, the public will ultimately do justice to your motives, and will feel that your decision has been the result of your honest conviction.

My lords, some allusion has been made by the noble earl to the presence of the learned judges during this solemn investigation. I do not exactly know what the noble earl meant by that allusion; but, without adverting further to it, I will say that it has afforded me great satisfaction that this important trial has taken place in the presence of the judges of the land. I was most anxious that, even after the close of the judicial part of our proceedings, the debates on them should take place in their presence. It gives me satisfaction that they have thus taken place; because I feel that the presence of those eminent and learned individuals would have been a check upon me, if I could, by possibility, have been capable of advancing any doctrines, which I believe are not strictly consonant to the principles of law and justice. My lords, I am content to be judged by those learned persons; I am content to be judged by the

profession of which they are the heads; I am content to be judged by your lordships; I am content to be judged by the public at large, as to the whole of my conduct in the course of these proceedings. I appeal to Him who alone knows the secrets of all hearts, and who can alone unravel all the mysteries and intricacies of this great case, if the judgment which I have given is not true—if it is not at least founded on a sense of integrity, and on a most sincere wish to do justice in mercy;—not with any disposition to visit the illustrious individual accused with a harsher measure of punishment than necessity requires; but with an anxious desire—a desire which I am sure is entertained by all your lordships—to do justice, in this most important cause, between the Crown, the Queen, and the Country.

Lord *Arden* said, that he wished from his heart that the bill could be withdrawn, and that some other way might be devised, in order to take the sense of the House on the question of the guilt or innocence of the Queen. As a peer of parliament, he felt it to be a duty which he owed to his king, to oppose the second reading of this bill. Its rejection would relieve his majesty from a certain degree of odium, and ministers from a heavy weight of responsibility.

Viscount *Falmouth* said, it was with great unwillingness he troubled their lordships, because, unpractised as he was in that House, he was very sensible how little he was entitled to their attention. But, if he felt oppressed by this consideration earlier in the debate, how much more so must he now feel, after the brilliant display of eloquence which he had since heard, and which, he could assure the House, would have awed him into silence, if he were not sensible that he had a paramount duty to discharge? He wished he could think, that the only question to be decided by the second reading of the bill, was that of the guilt or innocence of the royal accused, because his duty would then be a more clear, though a most painful one. But there were other considerations which pressed themselves most seriously upon his mind, and impelled him, before the bill should be read a second time, to say, that after giving it all the consideration in his power, he felt a most decided objection to the divorce clause which it contained. He knew he might be told, that if he were clear as to the guilt of the Queen, it would be competent to him, to move to expunge that clause in the committee; but he desired to state his objection now, because he had reason to know, that very serious difficulties existed in the minds of learned and experienced persons against passing other penal parts of this bill without the divorce; and he was anxious not to be misunderstood, if those difficulties should appear in the committee to be insuperable, if the bill should consequently be pressed in its present shape, and if he should then feel compelled to vote against it. He would trouble the House very shortly with the grounds of his objection; he could not be ignorant that he was to look upon the offence of the Queen, if guilty, as an offence against the state; but when he was remembering to award punishment for the guilt of the Queen, he could not forget that she was also a married woman. The noble earl at the head of the Treasury had indeed reminded the House, that if it had come within an act which would have made it treason, the punishment would have been far more severe; but as, from whatever circumstances, it did not come within the compass of that act, there was, in fact, no special punishment for it in existence, he was therefore surely right when he said, that the station and dignity of Queen did not divest her of those rights, which were possessed by the lowest married woman. Few, indeed, were those rights, comparatively; but he could not persuade himself, under any circumstances, to treat them lightly. He must therefore look to the circumstances of this case; circumstances, which it was far from his intention to dwell upon, which he should not have thus distantly alluded to, but to make known the grounds of his opinion, and which he should willingly fly from, as from a subject pregnant with public mischief. Under those circumstances, however, he could not hesitate to declare, that he did not think this a proper case for divorce. He confessed it would have been more agreeable to him, with this view of it, to have heard from those best informed in that House, how far they thought the difficulty he had mentioned, that of passing the penal clauses without the divorce, could be got over, and whether, if it could not, it was intended to press the bill, as it then stood. In saying this, he knew he spoke the sentiments of many other noble lords; but he was only anxious that his own conduct in the discharge of a most important

duty should appear clear, unequivocal, and consistent. He could not support the bill, if the divorce clause was essential to it; and it was only in the hope it might be dispensed with, that he could vote for the second reading.

The Earl of *Harrowby* said, that if the noble lord had an objection to the second reading of the bill, in case insuperable difficulties appeared to passing it without the clause of divorce—he too felt himself precisely in the same situation. He was one of those who concurred in introducing the bill; yet he was ready to declare, without at that moment entering into the reasons on which he formed his opinion, that if the question should be put, whether the divorce clause should be retained, he would certainly vote against it.

The Earl of *Lauderdale* said, that in the committee he should desire to be heard against the divorce clause, thinking that, on every principle, it was improper.

Lord *Ellenborough* observed, that as one of those who had concurred with the secret committee in recommending a solemn inquiry—as one who had agreed that it would be best carried on in a legislative form, and that the mode of proceeding actually adopted was the most convenient—as one, also, who had supported the bill on its first reading, but who now thought it highly inexpedient and detrimental to the public interests that it should proceed any further, he felt a natural desire to state briefly the grounds of his present opinion. The learned lord on the woolsack had truly said, that no noble lord ought to vote for the second reading of the bill, who did not think that the Queen was guilty; but they would allow him to add, that it was not necessary for all those who might vote against the second reading of the bill, to think that her majesty was innocent. The same learned lord had said to that House, "Be just and fear not;"—he would allow him to add, "be politic as well as just." The noble earl at the head of the Treasury, seemed to think that their lordships had already decided on the principle of the measure, and that they had now only to vote, whether the Queen was guilty or not guilty;—that it was due to the Queen and the country to express that opinion. It had been also said, that this bill of Pains and Penalties might undergo certain modifications. Now, he would in the first place say, that he considered the solemn inquiry which had taken place, had most properly taken place, and had taken place in a manner the most convenient to the parties. Their lordships had now arrived at that point, where it became their painful duty to take some measure with respect to the conduct of her majesty, as that conduct appeared in evidence before them. But they were bound to adopt the measure most suitable to justice and to the maintenance of the public morals—to the preservation of the national character and of the public peace. When he voted for the first reading of the bill, he certainly expected that the guilt of her majesty would have been proved in a manner the most clear—the most unsuspected and irresistible—in a manner so decided that it would have been perfectly impossible for any plain or reasonable man to refuse to give his vote on the question of her guilt. He did think, too, that when disclosures were made, they would necessarily create a material change in the public opinion; so much so, that the House in voting for this bill of Pains and Penalties, would have been in fact called upon by the nation to do so—and would have gratified the feelings of the people. Taking the particular view of the case that he now took, he would freely express the opinion he entertained of her majesty's conduct. He could not declare her majesty innocent—he was unwilling to pronounce her guilty. He did not think that the fact of her guilt had been clearly proved by evidence at their bar. He would not enter into the details of that evidence, but this he would say, that it appeared to him that several most material allegations had been entirely disproved—that other material allegations were not satisfactorily proved; and he confessed he was very unwilling to vote for so very important a measure, supplied, as it was, by evidence, a great part of which was of a very suspicious kind. Notwithstanding what had been said as to public feeling, he was quite ready to confess, that, on a great principle, he would be unwilling to vote for a measure, against which there existed a very strong and universal opinion. He deeply lamented the existence of that opinion—he could not approve of it—he thought it was founded on delusion of the grossest nature—and if the public should still continue to entertain an opinion of the innocence of the Queen, he would consider it the most disgraceful triumph that falsehood ever obtained over truth that the world ever witnessed. He could

not, however, vote for the bill. He always considered the question as one of public morals and of national character—he always considered that the great object of their lordships was to make an impression on the public mind—to put a mark on infamy and guilt; but the consequence of passing the bill, in the present temper of the times, would be to make it a measure of violence—it was a measure unsuited to the place and situation of the Queen, as it was opposed to the feelings of the country; the measure, therefore, would only create a re-action—instead of instructing the people, instead of creating an impression favourable to public morals, it would create a feeling quite the reverse. It was impossible for him to vote for the bill in the present state of the public mind—it was, he thought, impossible for the House to proceed any further on it with effect.

But whilst he said that, he thought their lordships would desert the duty which they owed to the country, if they allowed the conduct of the Queen, such as it appeared in evidence before them, to pass, without the expression of their strongest censure. The situation of a Queen of England was a responsible situation—she was a great functionary of the state—the country required from her no abilities—she had not the power to advise or to act on public affairs—but she was expected, and ought to be a model and example of female conduct. All that the country required of her was, that her conduct should be correct and pure. Was such the conduct of her majesty? No man of any heart ,who had heard the evidence at their lordships' bar—no man who had known, seen, and heard, what every man in the world must have known, seen, and heard, respecting her conduct—no such man would say that the Queen of England was not the last woman in the country whom a man of honour would wish his wife to resemble, or the father of a family would recommend as an example to his daughters. No man could put his hand on his heart, and say that the Queen was not wholly unfit to hold the situation which she holds. When they considered her offence, they must decide that she was unworthy of her rank. There was, he thought, a mode of proceeding against her which would produce the desired effect, without having recourse to a bill of Pains and Penalties. They might address the Crown on the improper conduct of the Queen—a mode of proceeding that would be consistent with the justice and expediency of the case. But a bill of Pains and Penalties would, in his opinion, produce a re-action in the public mind; but, by an address to the throne, the House might state their sense of her conduct, as it appeared to them by the fair, clear, and undisputed evidence of her own witnesses. The natural inference and conclusion to be drawn from that testimony, appeared to him to be this—that the Queen acted in a manner derogatory to her high station, inconsistent with the purity and delicacy of female virtue, so much so as to cast suspicions on her honour and her character which would prove indelible. Practically, what would be the consequence of presenting an address to the throne? Their lordships would, in the first place, get rid of the measure before them, and they would do enough to satisfy the public morals. Their lordships would recollect that, constitutionally, there was a mode to restrain the exercise of public functions where there was not a wish to destroy them. They might, in the present case, limit the allowance of the Queen, and they would thereby reduce her to a private station, from a station which she was utterly unfit to hold. He agreed with a noble earl on the cross-bench, that the great pride of this country had ever been the virtue of its women. It was a subject of national pride—a superiority which England could boast of over every other nation in the world. What was the love of country but the love of home? If there were no home—no domestic confidence, founded on virtue and cherished in affection—few would be the charms of life, and feeble the links, that could bind a man to his friends or his country. It was necessary not to allow the conduct of the Queen, disgraceful as it was, and injurious to the national character as it had been, to pass uncensured. The bare fact of her raising a menial to high rank, and sleeping by his side for five weeks, was a circumstance calculated to create suspicion, and rendered inquiry necessary. Other English princesses had had their frailties and their favourites; they had been attached to a Mortimer, an Essex, and a Leicester. But how great was the difference between men distinguished for rank, for education, for ability, for accomplishments, for public services, compared to the base object of the Queen's passion.

"Lust, through certain strainers well refined,
Is gentle love and charms all womankind."

But where were the strainers here? What was the object of her affection? What was he? A fellow-servant, the counterpart of Majoochi and Sacchi. He could not view the conduct of her majesty with any other feeling but that of unutterable disgust; and he hoped their lordships would not allow it to pass without expressing their strongest feelings upon it. It was not prejudice that induced him to think that a foul communication between a Queen and such a favourite was infamous, unnatural, and disgusting. The opinion was founded on sound reason and sound feeling; it was for the protection of families—it was for the safety of domestic virtue, of female pride and honour, that such conduct should be marked as infamous, ignominious, and base.

Their lordships would now allow him to say a word or two on the particular measure before them. They were told that the Queen had a right to a verdict of Guilty or Not Guilty. If she were innocent, she certainly had a fair claim to demand a verdict in her favour; if she were guilty, the country had a right to expect that the House would pronounce her so. Though, from the fair inference that was to be drawn from the evidence their lordships had heard, there could be little doubt of her majesty's guilt, yet he could not decide on the expediency of the measure before them. If, indeed, the charges against her majesty were founded on clear and irresistible evidence—on evidence such as had been before the secret committee—then it would have been expedient to pass the bill. Such evidence he expected; he expected, from the bag that had been laid on the table, evidence the most clear and irresistible. But what was the evidence before them? Was it such as they ought to found a legislative measure on? He thought not. It had been said, that the preamble, as well as the enacting clauses, might undergo certain modifications; he did not see what modifications they could undergo. Could they divide the prerogatives of the Queen into unities of privilege? Then, as to the preamble; the preamble, as it stood, was necessary to support the superstructure of the bill; if they took away part of the preamble, what would remain would not be enough to support both the clause of degradation and of divorce. To him it appeared impossible for them to pass the bill unconnected with the clause of divorce. Their lordships would allow him to say a word as to the inexpediency of passing the bill. Hitherto the conduct of that House had been viewed with suspicion. But, in this instance, they had reclaimed and sustained that high character which was justly due to them. He trusted that there was not a man who had heard the evidence given at their bar, and seen the manner in which this trial had been conducted, who would, if his life and honour were at stake, desire a more just and impartial tribunal than the House of Lords. Their lordships had proceeded with calmness and dignity; the course they had taken had not been objected to by petitions; and the public had waited for their decision with the greatest tranquillity and confidence, being assured that their lordships would deliver a sincere and well-founded opinion. But, although he admitted that there were occasions on which it was highly necessary, for the general advantage, that parliament should act contrary to what appeared to be the public opinion—although he thought the great use of parliament, and particularly of the House of Lords, was to correct public opinion, under peculiar circumstances, instead of being swayed by it—although he conceived they were not, on all occasions, to follow rather than to direct the public mind—still, granting this, he was of opinion that nothing was of so much importance to give strength and firmness to the state, as that general coincidence of feeling between parliament and the country which imparted real health and vigour to the constitution. How long, he asked, was this painful subject to be kept before the public? How long was the public business to be neglected? How long were the functions of government to be suspended? How long were the basest passions of the worst of men to be allowed their fairest onset against all that was good and estimable in society? If ministers demanded a justification for bringing this subject before the country, he would give it to them—not from favour, but from a sense of justice. He thought they were justified in acting as they had done, after considering the evidence that was laid before them. But, while he was ready to give them that justification, he would not give it in a manner which, if not absolutely fatal,

would be most dangerous to the country. He knew of no mode in which it was possible to express the guilt or innocence of the Queen—he knew of no mode in which it was possible to express their opinion of the conduct of ministers, so inconvenient and so unsatisfactory as by pressing the second reading of this bill. Was there any noble lord who really believed that this bill would ever become a law? He did not think there was. And, if that were the case, in what situation were their lordships placed? They were asked, on moral conviction, and on judicial conviction, to proceed to the second reading of this bill, hostile as it was to the feeling of the country, severe in its operation, and scarcely justifiable under any circumstances—a measure not calculated to effect its ostensible object; but merely to express an opinion, contrary to that of the people, and which might as well be expressed by an address to the throne.

He had thus endeavoured shortly to explain the reasons which induced him, notwithstanding the votes he gave when the subject was first brought before the House, to object to proceeding any further with this measure. He felt more apprehension than he could express when he contemplated the circumstances that might arise if this bill were pressed any further. Anxious as he was for the honour of that House—feeling as he did that its power was essentially necessary for preserving the balance of the constitution—considering the peculiar nature of this measure, which imperatively called on them to act in the spirit of justice and sound policy—mindful also of the circumstances that might flow from its enactment—looking to all these points, and being strongly actuated by them, he would undoubtedly give his vote against the second reading of this bill. But he trusted the House would not separate without a very strong expression of their lordships' feeling and opinion on the subject of the Queen's conduct, founded on the untouched part of the evidence—on that portion of it which was not suspected, and which no man could deny. This, he firmly believed, was the safest course; and the course, also, which was best for the interest of public morals, as well as the most consistent with public opinion.

Lord *Ashburton* said, that after all that had occurred—after all the evidence and argument that he had heard—there was not a syllable urged in defence of the bill, which satisfied his mind of its justice or expediency. Be the evidence what it might, still he was convinced that there were reasons which should induce their lordships not to pass the bill. This was an *ex post facto* bill and that alone, he humbly conceived, was of itself sufficient to cause it to be thrown out. There were four instances in the history of this country of the enactment of *ex post facto* laws, and they were uniformly condemned That of the earl of Strafford, that of the earl of Clarendon, that of Dr. Atterbury, and that of sir J. Fenwick. These cases were all held to be bad precedents; and he was astonished, considering the peculiar features of the present case, that they should have been followed. How stood the case? The persons who composed his majesty's administration, with a full knowledge of the facts alleged against the Queen, entered into a negociation with her, offering her 50,000*l.* a year. on condition of her remaining abroad. Now, this being the case, it seemed to him that, though this bill, technically speaking, professed to deprive her majesty of her privileges and immunities on account of a series of misconduct, yet it did in fact, go to deprive her of those privileges and immunities, because she had exercised her undoubted right of coming to Great Britain. The bill, in his opinion, was contrary to the known and recognised principles of the British constitution; because those who were to decide on it exercised a variety of discordant and anomalous functions. Their lordships had lived in very troublesome times, when many examples had been set of a dangerous nature, they ought, therefore, to act with caution, and to take care that they did not add another example dangerous to the constitution. By passing this bill, it might also be observed, as it at present stood (and he could only speak of it in that point of view), they would do a great deal of injury to an illustrious personage (the duke of York), whom he did not then see in his place. If the bill were passed, that illustrious personage, and several other illustrious personages would be thrown further back from the succession, and deprived of rights which were as sacred as those of his majesty. The principle of divorce he could never sanction; it was a proceeding which in every way deserved the public censure. Their lordships would recollect that Napoleon

had, through his influence over the pope, procured a divorce from his lawful married wife. And would George the fourth, the legal, undoubted, constitutional, limited monarch of England, follow the example of that ambitious and unprincipled despot.

Lord *Erskine* addressed their lordships from the ministerial side of the House, and said:—My lords, it is not my intention now to resume the detailed examination of the whole evidence, which I was proceeding to do when I was prevented on Thursday by a sudden indisposition [See p. 1469.] The speech of my noble friend opposite (earl Grey) which, in disregard of every risk to my health, brought me down to the House yesterday to hear it, has rendered such a course unnecessary—it would only unsettle your minds from a conviction which cannot but be impressed on them, by the admirable perspicuity with which all the facts were laid before you, and by the eloquence with which they were enforced. The speech which you have just heard from the noble earl behind me (Liverpool) I am ready to say, was the best answer which could be given to it, but to which perhaps it would be a sufficient reply, to desire you only to recall (what must so easily be brought back to your recollections), the arguments to which I have alluded. A methodical detail of the whole proofs would therefore be superfluous; and I now offer myself to your lordships rather as a kind of authority from long professional habits, than as a debater upon the evidence; omitting, however, none of the supposed facts which have been insisted on as established; submitting to you, at the same time, the principles of law, by which their truth or falsehood ought to be examined, or the consequences, if taken to be true.

The noble earl behind me has made a strong and powerful appeal to your lordships, with all the natural and justifiable warmth of a responsible accuser—a course much more likely to command attention than the more dispassionate language of a judge, in which character only I wish to speak. I shall try to suppose myself, for the present, to be one of the judges of a court of law, after the evidence before us had been given in an action of adultery, and summed up by the chief justice delivering a contrary opinion from that which it is my purpose to deliver—I think I should probably begin my address to them thus;—I am under no small embarrassment, gentlemen of the jury, in stating my opinion on the case before you, after having seen your box opened, and the plaintiff in the cause admitted to assist you in the verdict you are to pronounce; but on this I wish to be silent, as it is amatter to which we must now submit, and which is expected to be a valuable improvement of the constitution. All things arrive, but by degrees, at perfection, and the prejudices of our ancestors regarding the trial by jury, and the securities provided by them for its independence, are likely to be superseded by this grand discovery of the present times. Passing that therefore, by altogether, the question to be decided by you is this, namely, whether the defendant, upon the evidence before you, has been proved to have been guilty of an adulterous intercourse with Bartolomeo Bergami, a foreigner introduced from a subordinate military station, and advanced to a high rank in her service. It is charged, that this adultery continued during several years, and throughout the whole of her residence abroad in various countries; whilst she, on her part, alleges, that the whole is the result of a wicked conspiracy to defame and ruin her by false testimony, collected at a vast expense, by subornation, supported by the power and influence of several foreign governments, whilst she was an utter stranger to all those machinations against her.

Her majesty has to lament that she has been shut out from giving general evidence of this foul combination, the judges having decided, that such general evidence, when not brought home to the plaintiff or his agents, could amount, in the language of the chief justice, to "suspicion only," and that suspicion was not a legitimate ground for the verdict of a jury. I bow to that decision, which, however makes it necessary for me to remind you, that, for the same reason which thus excludes important testimony in favour of the accused, "suspicion alone" ought not to be a sufficient warrant for your verdict against the Queen; but in the language I have just cited to you "legal proof only." And whether that exists or not is the question you have now to decide. The cause will therefore rest entirely upon the credit which ought to be given to the witnesses. If they swear the truth, there is amply sufficient, and more than sufficient, for conviction; but that very circumstance will require the greater

attention in the examination of its truth. A great number of minute circumstances are detailed in the proofs, and a greater number of inferences are drawn from them than I ever remember in all my practice in the courts. The elevation of this Bergami, her kindness to his family, the condescension of her manners, her gaiety, though remote from any imputation of guilt, are all brought together, to eke out the case when facts are deficient; a course that began, and, I thought, had ended, in the analogous proceedings against lord Strafford, where treason was to be made out, not by any breach of the statute, but by many assumed offences of of a lower description pieced together, on which Mr. Hume, the historian, makes the following remark:—"As this species "of treason discovered by the Commons, "is entirely new and unknown to the laws, "so is the species of proof by which they "pretend to fix that guilt upon the pri- "soner. They have invented a kind of "accumulative or constructive evidence, "by which many actions, either totally "innocent in themselves, or criminal in a "much inferior degree, shall, when united, "amount to treason, and subject the "person to the highest penalties inflicted "by the law. A hasty and unguarded "word, a rash and passionate action, as- "sisted by the malevolent fancy of the "accuser, and tortured by doubtful con- "structions, is transmuted into the deep- "est guilt; and the lives and fortunes of "the whole nation, no longer protected "by justice, are subjected to arbitrary will "and pleasure." This course seems to be pursued here, which ought to inspire great distrust and caution in the examination of the proofs. No description can certainly be more accurate than this, of the course which has been here pursued. Many circumstances altogether remote from criminality, or from reasonable presumption of criminal purpose, have been collected together, in a manner quite unprecedented in actions of adultery to excite unwarrantable suspicions, raising them by unfounded inferences to be legal presumptions of guilt, the total inefficacy of which I shall consider hereafter. The witnesses, besides, were examined by commissioners beyond the seas, some of them even sworn to their depositions, the contents of which have, however, never been made known to the defendant, which the meanest subject is entitled to by law, that perjury may be detected by the examination of the proofs; and although general evidence of conspiracy and subornation have been excluded, yet the defendant has laid before you the most positive evidence of the foulest practices to corrupt the sources of justice.

My lords, although I shall continue to speak on the results of the evidence, yet I find I cannot go on with a suppositious case, nor continue to address you as a jury, nor can I, amidst such disgusting instances of fraud and perjury, preserve the calmness of a judge in a court of law; I must speak, therefore, at once to the case as a member of this House. It appears by the evidence of Omati, that he was taken to an avowed agent of the bill, charged with the whole management of this proceeding, who promised him employment in the police, and thereby obtained confidential papers of her majesty with which he had been entrusted; and what puts in the shade the basest and most infamous attempt at subornation ever heard of in the records of our courts of justice, the witness, Giarolini, who was a creditor of the Queen to the amount of 45,000 livres, for which he was naturally anxious for payment, was told by an acknowledged agent, that there were gentlemen at Milan, meaning no others than the commissioners Browne and Vimercati, and that this agent would see him paid his money if he had any thing to say against the Queen—This corrupt agent was no other than Restelli, whose infamy formerly provoked me to an intemperate expression, which my learned friend on the woolsack, with equal justice and kindness, suggested to me was then premature. But is it premature now? and is there any language now of abhorrence that must not fall short of the just indignation which a judge is bound on such occasion to express? This same Restelli, nevertheless, denied all corruption whatsoever; but, after this positive proof against him, and when, by order of the court, he was detained for further examination, he was dispatched as an agent to beat up for fresh witnesses, and never has returned—professional men are tender towards each other, and I make no attack upon Mr. Powell, who sent him; but instead of being examined before a secret committee, he himself, and all the commissioners, ought to have been the first witnesses called in support of the bill, and all the depositions taken before them ought to have been produced—a dark cloud, therefore, hangs

over the very beginning of this case, which it is impossible to explore, and which, therefore, imposes the most solemn duty upon us to examine with the utmost jealousy the testimony of every witness who has been examined. When we find the accusation to have been thus hatched in secret, and to have been supported by all the power and influence of foreign governments—when we see that some of the witnesses have been thrust forward by force, whilst others, from the same force and influence, have been kept back, and that the foulest subornation has been detected, what security could we have had for the truth of any part of the evidence, even if it had not been impeached by the palpable perjuries which have been exposed? All this, my lords, you must constantly bear in mind, when you are weighing the credit of every syllable that has been sworn; though you might safely be released from the solemn obligation, when the manifest and disgusting characters of the whole body of the proof is duly and attentively considered.

Before I proceed to pass along it, let me first remark, that if her majesty be really guilty, and the prosecution is therefore a just one, no false testimony could exist; false testimony is never found when an accusation can be supported by truth; and whenever, therefore, falsehood is found at all, much more if it predominates amongst accusing witnesses, it is a most decisive proof of a malicious prosecution. This, my lords, is so obvious, that the meanest understanding may embrace it, and I am therefore almost ashamed to remind you of its universal application. When crimes have actually been committed, and are to be detailed by witnesses, they have only to say what they saw. If they be honest and disinterested, how can they possibly be involved even in a disposition to be false, when the truth is sufficient to support them? and it may therefore be laid down as a maxim quite familiar to all who are acquainted with the proceedings of courts of justice, that whenever the leading witnesses to support any accusation, give manifestly false testimony, much more if given in proved or probable combination, the whole mass is corrupted, and the victim is not only unbound and set free, but the prosecutor is subject to be instantly attached and punished.

Let the case before us be only shortly examined upon this principle, and let our judgment follow accordingly. The first witness in the launching of a case, which is always the most important part of it, is Louisa Demont, who was discharged in the end of the year 1817, from the princess's service, together with her lover, Sacchi, of whom presently; and about the same time Majoochi, Birollo and Restelli, all witnesses for the bill, were sent away. This woman, who has sworn to an act of adultery at Naples, and who is a witness to the whole adulterous intercourse which the bill alleges, not only implored the Queen to restore her to her service, and to take her sister Mariette under her protection, but deliberately, in her letters before us, extols the Queen as the best and most virtuous of her sex, and declared the same to madame Martigner, a witness not attempted to be impeached. She said, that on hearing the witness say that the Queen was thought to be a gallant and libertine, she put herself in a passion, and exclaimed that she had been surrounded with spies, and that the whole were calumnies against her. Now, my lords, there is a great difference between a witness contradicted by other witnesses, and one who contradicts herself. The first is a question of credit between conflicting testimony, but the *second* is conclusive—How is it possible, then, to accept this woman as a witness to the Queen's incontinence, when, after the latest period of such accusations, which she has sworn to have known the truth of, she declares them to be calumnies, the wicked inventions of the spies by which her majesty was surrounded? I maintain, therefore, that such a witness can receive no confirmation; an accomplice or any other witness, whose testimony is only collaterally and partially invaded, may be confirmed by other evidence; but a witness who has made contrary declarations *on the whole matter in issue* is no witness at all.—Yet this woman, after her admitted infamy and falsehood, has been carried onward through all the arguments, particularly at the bar, as if she were a witness in any possible manner—Though dead and buried in the very outset, they dig her up again, and carry on her putrid carcase till the very wholesome air is infected.—But even if this were not sufficient to destroy her testimony, she is contradicted also as to the fact at Naples by positive proof. She swore that the second night after the Queen's arrival at Naples, she returned early from the Opera in a state

of agitation, directed the removal of Austin, and dismissed the witness, when in the morning her own small bed had not been slept on, and that of Bergami *at first* occupied, *then* much disordered, and *at last* as if two had lain in it, with a stain upon the quilt. Now, this bed had no sheets, and yet it was sworn by her to have been so occupied by her majesty and Bergami for forty days following, as if the Queen had constantly slept in it whilst in that condition, and as if she had lain naked on the quilt, without which it could not possibly have been stained. And to complete the destruction of this absurdly incredible falsehood, this very woman, the witness, throughout, to all the subsequent allegations of adulterous intercourse, though she had the care of her majesty's linen, both by sea and land, has not ventured to swear to any such marks in support of the criminal presumptions in the polacre, which, had they existed, would have been so very material.

But the most astonishing part of the case is yet untouched, inasmuch as though this infamous imposition has been in the argument distinctly admitted, yet the witness is still supported as deserving some credit. This reminds me of the strongest parallel case that I believe ever existed: an attorney of the name of Underwood had forged the will of a person near Bath, who died intestate; he had sworn to his being sent for—to his seeing the testator—and to the making and execution of the will, describing the very curtains of the bed he lay in, and the very colour of the ribband round his head. He then turned king's evidence, and to support an indictment, was called to deny all this, though he had obtained a probate of the will on his own affidavit, swearing to all the facts I have stated? he was, I think, improperly admitted, but on his coming forward to deny every word he had sworn formerly (being the very fact in issue), I would not even sit in court to hear such testimony, and my friend, Mr. Baron Garrow, now on the woolsack, who was counsel also in the cause, went out along with me into the sheriffs apartment at the Old Bailey whilst he was examined, although our clients, who had no other advocates, were on trial for their lives; but they ran no risk, and the best service indeed we could render either to them or to the public was, to show our utter contempt for such a witness.

I maintain, therefore, that Demont should be shut out as entirely from all consideration, as if she had never been examined. This principle is so very important in the administration of justice, that I cannot quit it without further trying its truth. I assert then, my lords, that a witness not merely contradicted, or inconsistent on some collateral matters sworn to, but who has deliberately and in writing maintained the perfect innocence of the person she comes to accuse, though after the period when she must have had full knowledge of all the facts she swears to; is so utterly discredited as to be incapable even of receiving confirmation from any other witness. Another witness may, indeed, swear to the same facts, and, according to circumstances, be credited, but credited only upon the intrinsic merits of his own testimony, and not upon the confirmation of nothing. Try this, my lords, by a series of figures —Demont must be admitted to be nothing, until, as it is said, she is confirmed, and must, in the mean time, be set down as 0; and therefore, after adding other evidence to any amount or value, under any denomination of figures, the quotient could not be altered by the 0 standing at the beginning. No, my lords, quite the contrary: So far from it, that in all my experience such subsequent evidence to bolster up a matter before discredited, has always been considered with extreme caution, because given in collateral support of testimony which had been before disbelieved. Demont, therefore, is, in my opinion, wholly extinguished as a witness. Yet, nevertheless, she is still resorted to. Even when all other evidence, as in the case of Catania, having failed them, they are compelled to raise her up again from the dead.

" ———The time has been
" That when the brains were out, the man would die,
" And there an end; but now they rise again
" With twenty mortal murders on their crowns,
" And push us from our stools."

My lords, I cannot leave this most important view of the evidence without adverting to the perfect consistency and fairness with which those who oppose the testimony of the accusing witnesses, on the ground of their contradictions, reject equally on the same principle any evidence for the Queen, however important for her defence, if at all

open to the same objection. Lieut. Flinn's minutes had surely nothing whatever to do with the merits of the case. He had nothing to distort or to conceal: It could be nothing to the support of the main body of his testimony, by whose hand they were written; yet they form an obvious state of confusion, having stated them to be of his own writing, which he afterwards admitted they were not. My noble friend (earl Grey), in the severest and most scrupulous measure of justice, set no value upon what he had sworn, tho' I have no doubt he believed it. He did so in support of a principle, without which there can be no human security. But, good God! my lords, if ever the palpable and immaterial mistake of lieut. Flinn may be so dealt with, and if the mere forgetfulness of lieut. Hownam to a conversation with captain Briggs of several years standing, tho' not at all invading the truth of any part of his evidence; if even this was brought up against him by the authors and supporters of this bill, what, upon the same principle, must become of the whole body of the accusing proof, not only detected to be false throughout by the most positive contradictions, and even by self confessions of falsehood, but abandoned, in the principal parts, by the ablest speakers amongst your lordships; who have been content, because forced to be contented, with what they are pleased to term unsuspicious and unsuspected facts.

Compelled, my lords, by the closeness of the siege to this entirely new and narrow ground for supporting the bill, Sacchi is also abandoned. The disgusting account he gave of being at the carriage on the journey from Rome to Sinigaglia, being contradicted by three most respectable witnesses, I thought we should never have heard of it again; yet the noble earl behind me seemed disposed to revive it, by talking about the curtains which he described. All this, however, is given up and abandoned. Cuchi, who looked through the key-hole at Trieste, is also given up, not that looking through a key-hole may not be the best of all possible evidence, because secrecy always accompanies crimes, and by stratagems they are often detected; but Cuchi, unfortunately for his evidence, saw all that he described three or four days after her majesty had left the place. Restelli, also, is an acknowledged false witness. Can there be more decisive proof of conspiracy, than that so many witnesses should be detected as forsworn, and is it possible to say, without the destruction of all securities for our honour, our property, or our lives, that after such detections you may still go on, and throw the dice, as it were, till some equally false facts turned up, but which there may be no opportunity to contradict? The practice of the courts in my time was wholly different. Sir William Scott, the most eminent judge who ever presided in his court, calm and dispassionate as he is, has been known to cast away with indignation the papers lying before him, that in the very outset were disfigured by detected falsehood.

But it has been said, that facts sworn to ought to be contradicted, when contradiction was within reach. Yes, my lords, if the facts are sworn to by credible witnesses; but I never, when at the bar, contradicted a witness detected and abandoned; because such a contradiction would be a restoration of credit, and at all events useless. In the same manner the noble earl has said, why was not the son of the factor called, to whom Galdini communicated what he had seen? But how could that have been a contradiction; because he might have told the son of the factor all that he told to us; yet the whole of it might have been a lie, as I verily believe it to be. Of Catania, I will not condescend to say a word, after the admirable manner in which this wicked branch of the conspiracy was exposed by my noble friend (earl Grey). It would be a burning day-light. And the same reason applies to Aum. The evidence of Majoochi also requires no other confutation than his own. Amidst a tissue of other falsehoods, he swore to having seen the Queen passing through his room into Bergami's, whilst within her full knowledge he was lying there in bed. To give colour to this falsehood, as it could receive no other support, he repeatedly swore, that there was this only passage; but was forced in the end to admit, that there was another. And, in the same manner, every one of the witnesses have been fully contradicted, or have shamefully contradicted themselves. I desire, therefore, here to assert, still remembering that I speak in the presence of the learned judges, that a prosecution so circumstanced could not have been permitted to proceed in any of our courts. It must have fallen of itself, when all the

leading witnesses for the Crown had in this manner, one after another, been manifestly perjured. Every judge attending to the just and humane principles of our criminal law, would in such a case interpose his advice that it should cease; because, under such circumtances, there could be no reliance upon any proofs that might be behind; much more if any combination had been established, as in the case before us; since it appears, that from the moment when all these witnesses, so combining, left the service of her majesty, no misconduct, secret or public, has ever been imputed to her. And is it possible to believe, that, if during all the periods of their service she had conducted herself with such open and abandoned profligacy as they have wickedly represented, she could at once, not even knowing she had been detected, have reformed her morals and her manners so as to be set free from all imputations or suspicions whatsoever,—a thing so improbable, that no man in his senses can believe it.

Her majesty, my lords, has therefore, in my opinion, great reason to complain that when the criminal acts relied on have been thus exposed and abandoned, false inferences should still be raised upon other assumptions equally unfounded. It has been relied on, that she had been left by her English attendants, from their sense of her misconduct, which has in the same manner turned out to be false, and in the same manner her exclusion from the societies corresponding with her illustrious rank, has been with equal falsehood asserted, though she appears to have been received with distinction at all the courts she visited, with the exception indeed of Vienna, where our ambassador was no doubt instructed to object to her reception. She was received at Naples, at Turin, at Baden, and at Bavaria, where Bergami was also received without objection; nor was a word heard against her in any quarter until apprehensions were entertained that she meditated a return.

On the failure of all these inferences from facts which failed them, they as unwarrantably have erected them on facts that exist. The noble earl behind me has gone the length of presuming a sense of guilt or misconduct regarding Bergami, from her majesty's not remonstrating at home against captain Pechell's rejection of him. Upon what ground could such remonstrance have been made? That officer was to judge of his own fit command in his ship; and had there been even just ground for complaint could this unhappy, rejected, deserted princess have been expected to remonstrate with her own government, which was raising up all the powers of the earth against her? Guilt has been also inferred from the order of St. Caroline at Jerusalem; but that which may be caught up as a presumption by a prosecutor ought to make no manner of impression upon us who are judges, until it is more duly considered. Upon me, my lords, that circumstance has had quite a contrary effect. I am bound to believe, in the absence of contrary proof, that her majesty was educated in the Christian faith; and believing that, upon what possible ground can I be justified in presuming that coming out of this polacre, the scene, as it is insisted on, of ungovernable lust, she should advance with her adulterous paramour, to the sacred temple of the resurrection at Jerusalem, the very shrine where our Saviour suffered in agony for our redemption, and there have consecrated the symbols and rewards of her criminal and degrading passion? For my own part, my lords, I can give no credit to this; because, though my passions in my youth were as strong as any man's, I could not have put bracelets upon a favourite woman as a memorial of my own offences. I feel, on the contrary, that if I were brought to the scene, where without what had passed at the era of our redemption, I must have perished for ever, I should (putting all self-reproach out of the question) have scarcely been able to hold up my head. Why, then, am I to presume against another, and upon no proof whatsoever, what I feel to be quite impossible in myself? If inferences were to be thus indulged in on the subject of orders, they might be equally presumed—but I am persuaded most unjustly—to apply to noble lords in the House, ever since these proceedings were instituted abroad. I remember when the ancient order of my native country was given to me by his present majesty whilst those with whom I had always acted were not in office, it was presumed by some to have been bestowed to detach me from my principles and my friends; I was not angry at this unfounded supposition, since so many public men have fallen off from their integrity and because jealousy is a mark set upon the value of former conduct. But the total falsehood

of the presumption may show how hazardous it is to presume any thing whatsoever, against all probability and without any kind of proof. But whatever, my lords, may be the just range of inferences or presumptions, it must I am sure be impossible, with reason, to infer, that the opinion I have formed on this unfortunate subject have arisen from prejudices or from partial inclination. To the king, who cannot be indifferent to this proceeding, I have many many obligations, from the warm interest formerly taken by his majesty in my prosperity and happiness, and from my belief that I am still held in the same personal regard, though political changes have removed me at a greater distance from his person. If his majesty were ever exposed to any thing injurious, I should ever be ready to protect him at the peril of my life, and to contribute to his happiness by every sacrifice but that of my duty. My principles I never have deserted and never will desert [Loud cheers].

If then, my lords, all unjust and unauthorized inferences are withdrawn, and the antecedent evidence is totally annihilated, we are brought at last to the polacre, and to the facts as they are established to have taken place in that voyage; on which facts, even on the admission of the supporters of the bill, the whole case may be said to rest. And be it remembered, my lords, that if the case is to be thus narrowed, without any retrospect to evidence discredited and abandoned, her majesty must be taken to have entered into that vessel without proof of any previous guilt, and Bergami must also be taken to have been an attendant upon her up to that time as a faithful and respectful servant, so as to bring the evidence on board this polacre to its true bearings according to the facts proved there, and to the consequent presumptions of law. Without this clear understanding, justice cannot possibly be administered. If, indeed, antecedent indecencies were to be believed in, even in the absence of consummated guilt, my opinion would be very different from that which I am about to give; but which I rest upon the discredit which it is admitted ought to belong to the proof of previous misconduct.

Removing that which ought to be wholly removed when the combined and detected perjuries are attended to, there is no proof of adultery, whatsoever, much less, as has been asserted, by "unsuspicious, unsuspected, nay, uncontroverted proofs," unless it could be contended, that lieut. Hownam proved it, who said expressly, that he suspected nothing wrong from Bergami's sleeping in the tent—"I thought there was no impropriety, because I must have felt it, and I did not feel it." They had slept below during part of the voyage, till they were obliged to remove from the heat of the weather and the horses that were on board. There they might have had unsuspected access to each other; but in the tent, or awning on deck, open from the hatchway, and subject to constant interruption, criminality, though possible, was far more improbable.—And what, besides, could they have sought for but the act of adultery, which did not require being exposed to suspicion by sleeping so close to each other?—They were not undressed, and there could be no enjoyment in sweltering in each other's arms in a vehemently hot climate. He was her attendant besides, from duty, a circumstance never to be forgotten; had he been a stranger, a mere passenger on board the ship, I should have thought the presumption conclusive; or if his place of sleeping had been at a distance, and he had been traced secretly in the night into the Queen's tent, and had remained there, I should have thought the evidence very strong, if not quite conclusive. Of the legal proof of adultery I cannot be ignorant, having conducted every cause of that kind for nearly 30 years, not only in Westminster Hall, but often on all the circuits. The presumptions of law on that subject are presumptions of reason and common sense. If a married woman leaves her own bed secretly in the night, and is found, whether dressed or undressed, in a man's room who stands in no relation to her to account for it, nothing more can be necessary to convict her, because she could go there for no other purpose, and of course the proof is the same when the man goes into the bedchamber of the woman, because why else should he go there, or why else should she receive him? The same presumption, if not explained by circumstances, would apply even to attendants as well as strangers, but not from such circumstances as attended this voyage, only sleeping thus near to each other. How many hundreds of single men have only a woman servant, often married, and who of course are left alone in the night in

apartments often close to one another? Could the husband in such case, without proof of criminal access, bring an action against the master for adultery? Certainly not; but if a married woman, not his servant, were to be found in his house in the night, the evidence of adultery would then be complete, because why else did she come there? If the indecencies on deck, indeed, could be believed, I should think a legal presumption, if not the strongest suspicion, would then follow; but it is not supported by any probable proof. How, indeed, is it possible, when, after having guarded herself so closely, if she was criminal, that nothing, except accidental discoveries, sworn to by false witnesses, had been attempted, could she thus, after the full enjoyment of the nights had been at her command in secret, rush into his arms in the presence of all the crew upon deck, who, as was proved by Paturzo, were all there enjoying the air of the evening? Where, then, are those sailors? The governments of Italy, that have compelled the attendance of other witnesses, might have beat the drum for them throughout the whole Mediterranean sea. Evidence by Oldi or Vassali, had they been called, would have been useless, as they could only have said (which would have been nothing) that they did not see it, but the sailors might have sworn that they saw it. It rests, then, on the testimony only of Gargiulo and Paturzo, on which I need only remind you of the observations of lord Grey—the former, as he truly said, coming here not only from resentment, but expectation to get his six thousand dollars, which Bergami would not pay; he must have been well aware that the fulfilment of his expectation would depend upon his evidence; and that if he failed on being useful, he could have little dependence upon his dollars. The other witness is in the same condition, and his evidence is incredible, notwithstanding the pious care of his relation, that his morals should not be corrupted by the view of what was passing; a thing so disgustingly false, as to deserve no other notice than that which last night was so successfully employed to expose it. This then is the whole, as I was quite astonished that Carlsruhe should again have been mentioned.—The noble earl behind me said, that baron d'Ende, though his absence was improper, could not have given material evidence in contradiction of Kress. How so, when he said that his heart beat to come over as a witness? An expression he could not have used but from the knowledge that he could have proved the princess to have been at the court of the duke of Baden when Kress swore she was in the inn.

It was said on a former day, by my learned friend (lord Redesdale), that the witnesses whom I have put aside as wholly discredited by their own inconsistent declarations, had received sufficient confirmation; but I maintain positively, nevertheless, that they could not be accepted as credible in any of our courts, and that the evidence falsely called confirmatory, must rest wholly upon its own intrinsic credit, whatever that may be; and I repeat it again, as my firm and unalterable opinion, that a cause of this description, ushered in and pursued by witness after witness, detected in palpable falsehood, could not be made the foundation of any criminal sentence. Were I a judge in such a case I would not advise a jury to find a verdict of guilty; and were I a juryman, I should not follow such a direction or advice.

As to the alteration of the preamble, I cannot even understand what is meant by it. I must vote upon the proof as it is, and as it supports the charge now before us; and even if I believed that adultery had been committed, I can find no credible evidence, whatsoever, of public crime or licentiousness bringing scandal and dishonour upon the country, which is the charge in the bill, and from which it is impossible to depart. I find, on the contrary, out of the fifteen or sixteen overt acts which have been sworn to, all of them except a masquerade, and the ball at the Barona, which came to nothing, were avowedly secret; and nothing that passed in this little polacre was ever heard of, nor ever would, to the end of time, had it not been fished out and got up by the Milan commission, through the terrors and influence of foreign governments; and as to any intended mitigations, if I were in the Queen's situation, and I were convicted of adultery upon such evidence, I would cast your mitigations in your face, and appeal in the other house of parliament, to the representatives of the people. The House of Commons never can pass this bill against their own declaration; they cannot pass it as a national wrong against the national *nolle*

prosequi, which will continue to issue from every quarter of the island. My noble friend, the secretary of state, brought in a bill some years ago to alter the Toleration act, by an abridgment of the liberty bestowed on dissenting congregations, which the House seemed to approve, and in argument never abandoned that approbation; but when I could scarcely see the table before me for the petitions of the dissenters, which I presented to the House, no minister could have carried it through; and on my motion it was instantly and without a struggle rejected, just as this measure, if persevered in, must infallibly perish. My lords, I am very sorry to have broken my promise as to the time I should detain you, but I felt myself bound to give the opinion I have delivered and I misreckoned the time it would consume.

Lord *De Dunstanville* said, that the objections principally relied upon by the opponents of the bill were; first, that if it were passed, it would be rejected in the Commons; and, secondly, that the public mind had already decided against the measure. With respect to the first objection, he thought it should have no weight with their lordships, as it rested upon a calculation which he believed to be erroneous; and as to the second, he thought the public mind was much deceived upon this subject, through the garbled statements and inflammatory comments which had appeared in the newspapers. The public, then, could not be so competent to form a judgment upon the merits of the case as their lordships, who had been occupied for forty-five days in hearing the several witnesses, with the arguments of the counsel on both sides. The noble lord then adverted to the rapid exaltation of Bergami, who, after all the endeavours to throw a sort of credit over his origin, was clearly shown to have been a menial servant. Yet this man, from the lowest situation was raised to the highest to which the princess could elevate him, and with the most unaccountable celerity. Then was he seen surrounded by his own trusty relatives, and shut in by them from the eye of observation.—Sisters, brothers, cousins, all but his wife; who was excluded, though her child, who wanted her protection, was a part of the family circle. What construction could their lordships put on these broad facts; on the suspicious condition of madame Oldi and on all the circumstances in the open relation that subsisted between the princess and her favourite, but that the flagitious conduct charged in the preamble of the bill had taken place? Among the general objections taken to the testimony of the witnesses for the prosecution, the only one, applying to two of them, the master and mate of the polacre, was, that they were exorbitantly paid. He did not believe that they were. If the fact, however, was so, how happened it that the counsel for the Queen had not brought forward witnesses to prove it? With respect to Majoochi, their lordships would not consider his evidence impeached in any material point. As for any trifling inaccuracies, if such there were, the House would remember, that the interpreter himself on one occasion remarked, that Majoochi appeared to be so stupid or ignorant, that he thought the man was not aware of what he was saying. He denied that the evidence of Carrington at all affected that of Majoochi. Carrington stated, that he had had a particular conversation with Majoochi. The latter positively contradicted this assertion. On what principle, then, were they to believe the one and discredit the other? Much had been said by one of the counsel for the Queen, in favour of Carrington; but how far their lordships would rely upon the judgment of a man who could compare his sovereign to the bloodiest tyrant of antiquity, he did not know. Carrington having, in instances which it was needless for him to recapitulate, proved himself a liar, he would not trouble their lordships with a further examination of what he had deposed to. His lordship then adverted to the evidence of Demont, which, he contended, was of a clear and consistent character. He was sure that in this great and important case their lordships would deliberate with caution, and decide upon the conviction of their own conscience.

Lord *Manners* said, that he felt it impossible for him to give a silent vote on the present occasion. The material question for their lordships to consider was, whether the preamble of the bill, which charged the Queen with having been guilty of an adulterous intercourse, was proved. If the case, as it had been established, rested solely upon the evidence of foreigners, it had been said, that their lordships ought to hesitate before they gave implicit credit to their testimony. This doctrine he did not consider correct; for although Eng-

lishmen knew the value of sincerity, it was wrong to arrogate the conscientious habit of considering themselves bound by the sanction of an oath. If their lordships were not thoroughly satisfied of the truth of the allegations of the bill upon the evidence given by the Italian witnesses, they had to look to the corroboration given to their testimony by witnesses belonging to other countries, and also by the witnesses who had been brought forward on the part of the defence. Confirmed as the testimony of those foreign witnesses materially was, he knew not how it was possible to refuse credit to it. There was another circumstance which, he confessed, had made a great impression on his mind. He alluded to the caution given by Mr. Craven to her majesty soon after her arrival in Naples, respecting her conduct towards Bergami. It appeared strange to his mind that such a liberty could be taken by Mr. Craven as to offer any comments upon her royal highness's behaviour to her royal highness, and he certainly thought that such a liberty would have been resented, if there had not been sufficient ground for Mr. Craven's taking such authority upon himself. But the conduct of the princess at that time, and her subsequent treatment of her favourite Bergami, proved that the caution had been well justified. If any doubts were entertained by their lordships on that point, those doubts must be removed by the consideration of the conversation which had been proved by captain Briggs to have taken place between him and lieutenant Hownam, and according to which it was established, that lieut. Hownam had gone upon his knees before her royal highness, and with tears in his eyes, besought her not to admit Bergami to her table. How was that action to be accounted for, unless it was admitted that lieut. Hownam had seen the influence of the growing passion of her royal highness for Bergami, and that fearing that influence would be detrimental to the honour and happiness of her royal highness, he endeavoured to dissuade her from yielding to it? That circumstance appeared to him to throw light on the whole case. In what manner was the polacre case to be explained, when it was connected with the former circumstances in her royal highness's conduct? On the voyage from Jaffa the princess of Wales slept on the deck, when, if even the attendance of a servant might have been necessary, why had Bergami been chosen rather than lieut. Hownam, or any other of the attendants upon her royal highness, unless for the purpose of indulging a criminal passion? Was it consistent with the delicacy of a virtuous and modest female to sleep for more than five weeks under a tent with a man? No; every feeling of delicacy and of propriety would have prevented any modest woman from acting so: indeed, it would have prevented any female, unless one blinded by passion, from sleeping in such a situation for so long a time. The sleeping in that manner under the tent, and for such a period, appeared to be so destitute of delicacy, that it was a decisive proof to him that the crime of adultery had been committed. He was almost ashamed to hear his learned friend (lord Erskine) doubt whether adultery had been then committed. He should say that proofs so circumstantial as those which had been advanced in this case could not be doubted. The preference given by her royal highness to Bergami over the other servants, could not but give cause for suspicion. The sleeping under the tent with such an attendant was a proof to him of the commission of the crime attributed to her royal highness. He was therefore of opinion, that the evidence had substantiated the allegations of the bill. For how otherwise, could the evidence of six or seven witnesses be explained, who deposed that the princess had slept for five or six weeks on the deck of the polacre, in a tent, with a man servant, to whom she had before that time exhibited such proofs of attachment and of preference? Such conduct, in his judgment, distinctly proved that adultery had been committed. Independent of the case on board of the polacre, there were other circumstances which established the charges—circumstances which had been proved by witnesses whose credibility he considered as beyond doubt. Such was the case stated by the witness Kress to have occurred at Carlsruhe—a witness who had given her evidence with so much diffidence, and whose whole demeanor was so consistent with propriety while she was at their lordships bar, that he considered no imputation could be cast upon her evidence. In her testimony respecting the facts at Carlsruhe, she had stated something respecting the countess Oldi, as being at the time in the inn, and consequently capable of declaring the truth; yet the countess, although in England, had not

been called to contradict the statements of Kress. Why had not she been called? The same observation would apply to the other witnesses who might have been brought forward on the part of the defence, and who were not produced. It might be fair to doubt the testimony of only one person, but when that testimony was not only confirmed, but even not contradicted when it could be contradicted if untrue, its effect remained undiminished. To his mind, the case on behalf of the bill, on his conscience and on his honour as a peer, he considered to be as fully established as any case he had ever heard. He was convinced that the adulterous intercourse had taken place. If their lordships were of the same opinion, it was not possible for them to stop there; for if they rested at that stage, what had they been doing heretofore, except uselessly and mischievously exposing the vices of her royal highness to the world, and for no good purpose? It might be said, that they had done enough in going so far; but was it possible to say that the public had no interest at stake in the present proceedings? Would any noble lord say, that the moral character of the people would not be affected? Could it be maintained that the example of the Queen—particularly if no mark was affixed by their lordships on what was deemed scandalous conduct—would not have its influence on the morals of the whole community? Would any one deny that the good example of the late Queen was attended by the best effects through every class of society. Their lordships were bound to take care that, in the highest situation in the country, such an example should be held forth, as would be productive of good effect, particularly when every engine was at work in order to sap the foundations of morality, to destroy the throne, and to overturn the church and state. There was no man who could regret more than he did, that such a bill should be considered necessary; but as it was necessary, their lordships were bound to do their duty. It was impossible to allow this woman to ascend the throne, after the establishment of the case against her. The arguments in support of the bill he considered to be irresistible. He was perfectly satisfied in his mind that the preamble had been fully proved, and therefore he would give his consent to the second reading.

The Duke of *Newcastle* was anxious to state the reason why he felt himself justified in voting as he should do on the bill, though he was not present at the examination of the witnesses, or at the previous discussions. He had been prevented by domestic business of a pressing nature, from attending in his place until Wednesday last, but he had read over the whole of the evidence with all the attention in his power, and he felt that he was as capable of pronouncing a verdict in the case, as if he had been present. His opinion was, that the Queen was clearly, indisputably, and incontestibly guilty, not only of the alleged adultery, but of conduct in other respects disgraceful and degrading. He therefore should vote for the bill when the time arrived for doing so; though he felt it right to state, that some clause or provision should be introduced to restrict one of the high parties from contracting marriage.

The Marquis of *Lansdown* observed, that he was both glad and sorry that an opportunity for explanation had been afforded to the noble duke who preceded him. He was glad that any explanation which he might have thought necessary to the justification of his own conduct should have taken place, but sorry that the explanation given, however it might justify the noble duke in his own opinion, was not of a nature to satisfy the public mind as to the propriety of his interference. Did the noble duke think that to be present during the whole of the prosecution was a mere formality which might or might not be observed, according to the inclination or convenience of the parties. The noble duke had stated, that he was prevented from attending by domestic circumstances, by circumstances connected with his own personal convenience; he had stated, that he had not heard the speeches of counsel at the bar, nor the evidence by which the case was to be supported on either side, and yet, after such admissions, the noble duke had gone on to say, that having read the evidence, he was as well prepared as if he had heard it all, not only to vote for the second reading of the bill, but for all the penalties attached to the imputed offence. No doubt the noble duke thought he was acting conscientiously; that he thought he was sufficiently informed on the subject, and was as capable of coming to a just and equitable conclusion, as those who had attended the investigation of the charges from day to day. That such was

the impression of the noble duke he had no doubt; but how he had formed that impression, or by what process of reasoning his mind had been enabled to come to such a conclusion, the noble duke himself could alone explain. If the mere reading of the evidence was sufficient to enable a juror to pronounce a verdict, that great constitutional safeguard, the trial by jury, which was only good as it imposed the necessity of being present at the evidence was rendered nugatory. But what would be said, if any person who being absent during a part of the trial, should say that he had read the evidence, and was ready to pronounce for the guilt of the accused? They had heard a noble lord (de Dunstanville) affirm, that the public were not capable of judging in that case, as they were not present to hear the evidence. What must that noble lord think of his fellow juror, who was absent when the evidence was going on, and who yet came to that House to give his vote against the accused. He had spoken warmly on this subject, because he felt warmly; but, sitting there as a fellow juror, he would have gone away unhappy if he had not delivered his candid opinion upon the conduct of the noble duke.

He would now address himself to the subject before the House. If he felt any difficulty in doing so, it did not arise from a hesitation as to the vote which he should give, but from an apprehension that feeling still so much under the influence of the speech made yesterday by his noble friend (earl Grey), he might run a risk of enfeebling any of the points by an imperfect repetition. Oppressed as he felt by the nature of the cause, and the talent of the speech to which he had alluded, he still felt it to be his duty to offer some observations in support of that vote which he should give. He did not feel himself in a situation to dismiss from his mind altogether the evidence produced at their lordships bar. He thought it his duty to listen to the whole of the evidence. In doing so, he did not look at it to discover proofs of the Queen's innocence, but proofs by her prosecutors of her guilt. The distinction he had here drawn was a correct one, and one without which criminal justice could never be administered with effect. There had been instances of bills of pains and penalties, but there never was an instance of one in which the guilt was not accurately defined. Bills of that description were introduced for various reasons. Sometimes to let in evidence which could not otherwise be produced, and without which the guilt of the offending party could not be established; sometimes to expedite the course of justice, in cases where delay might be fatal to the issue; and sometimes to alter the punishment itself, by making it more severe than the ordinary penalty; but in all instances a distinct crime was proved, before parliament agreed to such an extraordinary remedy. If, in the present case, the charge of adultery was not proved, all the improprieties, all the indelicacies of conduct with which the Queen was charged, even though they should be established in the most minute particulars, ought to be dismissed from their lordships minds in coming to a decision on the bill; they were bound as legislators and as jurors to dismiss them. It was in vain to say that they ought not to pass unpunished; for there still remained the most powerful of all tribunals, the tribunal of public opinion, which assigned the most unerring penalties to vice, and the best security to virtue. He therefore could not agree with a noble lord who had said, that if her majesty was sent away from the bar, she would be sent under different circumstances from those which attended other women in ordinary cases of divorce. If there was any difference, it was only this, that the publicity and importance of these proceedings insured to her majesty a fairer, more candid, and just judgment from the public, than those who were the parties in private cases could expect. But he agreed with a noble earl who had spoken yesterday under the gallery, that the tribunal of public opinion never acted so powerfully as when the legislature did not attempt to meddle with it. How cautious, then, should they be not to raise up a counter feeling in the public mind, or give to the people of this country a motive for deviating from that view in any case which the facts themselves might be calculated to impress.

He now came to what was considered as the *gravamen* of the charge against the Queen; he alluded to what had taken place on board the polacre. Other points had, indeed, been relied upon by counsel; but anxious as those who were bringing their minds to vote for the bill naturally were to find some prop on which to rest, he had heard no other part of the accusation relied upon, without statements, in

his opinion, manifestly unfair. All the evidence relating to other transactions was of a character more suspicious than the transactions themselves,; and he did not know a better mode of guiding his opinion than by balancing the degree of suspicion attached to the evidence against the degree of suspicions belonging to the facts to which it referred. He would not go into detail, but touching upon the testimony generally, he must confess, in the outset, that though he should have been better satisfied if the countess Oldi and Mariette had been examined, yet it was but fair to recollect, that the occurrences at Catania were not brought home to any particular date to which their contradiction might have been directed. Nay, what was sworn regarding Catania, rested on the testimony of that witness who could hardly exist as a witness in the minds of their lordships—Demont; and in whose deposition there was among the many contradictions, one not noticed in the course of debate; she first swore that at Catania she had supped and gone to bed before the princess, so that she could have no opportunity of knowing how the princess was dressed, yet she subsequently stated, that she had seen the dress of the princess as she passed through the room when the princess was going to bed. He had been surprised to hear the noble earl opposite rely upon what passed at Scharnitz, where he had said that the princess had not thought the protection of Bergami necessary for her security. Her small room was there surrounded by several men who could have assisted her if necessary, and they were not undressed, because they were prepared to set out on their journey at break of day. All this had been most naturally accounted for by Vassali: nobody had undressed; it was a small inn, in a small town, and the princess and her suite retired where they could, under the inconveniences to which they were exposed.

Proceeding to the polacre, he was perfectly ready to admit that it must be allowed that the sleeping under the tent was distinctly in evidence. He had seen no disposition on the part of lieut. Hownam to conceal this part of the subject: that officer had always made a distinction between what he knew and what he believed, and he was always willing to state his belief when called upon. If the House looked at the examination of lieut. Hownam by Mr. Tindal, they would see, that he endeavoured to make the witness prove who it was that slept under the tent. He went even further than the rules of examination would allow for that purpose; "For he said, if you do not know who slept under the tent with the princess, state who you believe it was." Here he was stopped by the other side on the ground that the counsel had no right then to inquire as to the belief of lieut. Hownam. Having stated this, did he (the marquis) mean to say that he thought there was no objection to this situation? On the contrary, he could not pass over the subject without admitting, in the strongest terms, that it was deeply to be lamented that the princess of Wales, or any other person so near the throne of these realms, should be placed in such a predicament. This at least must be said of it—that if it were not proof convincing of her guilt, it made it impossible for the Queen to prove her innocence. When she placed herself in that situation, she could scarcely have been ignorant of the imputation to which it must expose her. Allowing its imprudence—its impropriety—was it to be considered as a direct proof to establish a crime of the great character here charged, and to be attended with such consequences as were here contemplated? That he must utterly deny. If presumption of guilt was to be admitted on the one hand, the presumptions of innocence could not be excluded on the other. He appealed to the House whether there was any probability in the position, that the princess and Bergami having their option of time and circumstances for committing this crime, would have chosen the deck of a polacre as the scene of their intercourse? In such a situation was there not every chance that they would be exposed to all risks, both of comment and detection? Parties, when driven to it by necessity, might sometimes be found carrying on an illicit connexion under most inconvenient circumstances; but here it was assumed, that the princess and Bergami voluntarily placed themselves in a situation where concealment was almost impossible. The noble earl opposite insisted that it was not necessary, for the purpose of protection, that Bergami should sleep under the same awning with the princess; neither was it necessary, he would tell the noble earl, to the carrying on of a criminal intercourse that Bergami should sleep there. Was it not in evidence that the hatchway was con-

stantly open? And might not such an object have been obtained, with ten times greater security, by Bergami's sleeping below, and using the hatchway at his pleasure for access to the tent? It was impossible to believe that the princess, using that excessive caution which the very case of the prosecution ascribed to her—using that extreme caution during a period of three years—so discreet during the whole of that time, as not to afford her enemies one single positive proof of her guilt—could have been all at once so abandoned by her caution, so deserted even by common discretion, as the prosecution represented her to have been on board the polacre; it was incredible, that she and Bergami, the moment they got into that vessel—the moment they became subjected at every turn to the comment of Greeks, Sicilians, and Turks—the moment they lost the aid and protecting ministry of those servants who might be supposed to have been favourable to them—the moment, in a word, they became exposed in a tenfold greater degree than they had ever been exposed before to observation, and to suspicion; that that moment they should have laid aside all care, all caution, all ordinary prudence, and have literally courted that detection, which their own folly was rendering inevitable. Because, let the House remember that all this was going on upon the deck of the polacre; that the selected spot for this criminal intercourse was within a few feet of the ever-present steersman; and a spot about which two and twenty sailors were constantly moving in all directions. He would not say, that this was evidence unanswerable of the innocence of the Queen; but he would say, that it was such evidence as must engender doubt in the mind of any man; and that every doubtful point ought to be construed in favour of the accused. With him, however, the case did not rest there; because, far from concluding with the noble earl opposite that the circumstances proved in other cases formed accumulated grounds of presumption against her majesty, he thought that those circumstances, taken with fair reference to the characters of the witnesses by whom they had been proved, afforded no ground for unfavourable presumption. For what was in evidence as to these terrible circumstances in other places? What, except this—that the identical persons above all others able to give direct and positive evidence against the princess, if her conduct had been guilty, that those persons, now hostile to the princess, and in the power of her enemies, had failed in every situation to make out such proof. In any case, no matter what, where the existence of guilt was assumed, and where, with the chambermaids, the house servants, with all the persons enjoying most familiar access in their hands, the prosecutors were unable to prove a single distinct fact; in any such case he should say at once, that adultery was not made out. And supposing there had been, even occasionally, adulterous intercourse, much less a constant course of adultery during three years, was it possible, he would ask, for the chambermaid who had charge of all the linen during the time—a chambermaid not backward, in discovering any thing to the prejudice of her royal mistress, a lady who had her journal ready to note down a fact, and her *double entendre* to explain it—was it possible, supposing crime to have been committed, that such a woman should be unable to fix a single direct fact.

The hour of four having arrived, their lordships adjourned.

HOUSE OF LORDS.

Monday, November 6.

The order of the day being read,

The Marquis of *Lansdown* resumed—

When the House adjourned on Saturday, he was, he said, about to call their lordships attention to the Aum case, so pointedly alluded to by the noble earl opposite and the learned lord on the woolsack. It was singular that both those noble lords should have selected the case at Aum as one which confirmed the inferences to be drawn from what passed on board the polacre, when the whole of that case rested exclusively upon the evidence of Demont and Majoochi, whose testimony those noble lords had declared that they dismissed out of their minds. Demont and Majoochi were the only witnesses who were called to prove that part of the case. Lieut. Hownam had not the slightest knowledge of any circumstance which had a tendency to corroborate those witnesses; and even Paturzo, agreed with Hownam, and was unable to say whether the princess and Bergami rested exclusively under the tent. The noble earl re-

lied upon a circumstance which had no weight whatever with him, namely, that the tent was a double tent, and that the princess and Bergami slept within the interior circle of it. It appeared, however, from the evidence, that there was but a small separation between the outer and the interior circle, which was obviously designed to afford some sort of shelter in that sultry climate. The moment the circumstances were examined, there was an end therefore to the suspicious inferences drawn from the outer and the inner circle. He begged their lordships' attention to the evidence of Demont upon this subject, as it furnished a most remarkable proof of the *mala fides*, which characterised every part of this woman's testimony. In her examination in chief, Demont, in giving evidence as to the situation in which the princess was found reposing in the day-time under the tent, being asked whether she was dressed or undressed, immediately replied undressed. The answer was obviously intended to leave a certain impression upon the minds of their lordships. In a subsequent part of the evidence, their lordships will find, when the counsel for her majesty were endeavouring to set her evidence aside, with what reluctance she was compelled to do away the effects of her former testimony. She was asked, whether the princess was dressed when she came out of the tent, and he begged their lordships' attention to her answer: "She had nothing but an outer robe or garment." Such was the evidence upon which many of their lordships wished to aggravate the circumstance of her majesty's reposing under the tent into a direct inference of guilt. He thought it right to call their lordships' attention to these facts, not because he conceived there was no impropriety or indelicacy in the conduct with which her majesty was charged, but because, in this case, as well as in that of the polacre, inferences were attempted to be drawn, which the circumstances did not warrant; for it was scarcely possible that a criminal intercourse could have taken place during the time which her majesty allotted to repose in a hot climate, for the purpose of enabling herself to resume her journey.

He begged now to advert to some observations which had been made by the noble lords, on the subject of the persons composing the suite of her royal highness having left her. He must say, that the noble earl had, in arguing upon this part of the case, made, no doubt unintentionally, a most material mistake. He alluded to that part of the noble earl's observations which referred to the testimony of Sicard. The noble earl had selected the answer made by Sicard as to his motives for quitting the service of her royal highness, in order to induce their lordships to draw an inference unfavourable to her majesty. Sicard was asked, how he came to leave the Queen at Naples, and his answer was, that he did not leave the Queen, but her majesty left him. Here the noble earl stopped, and it was plain what inference he meant the House to draw. If their lordships proceeded a little further in the evidence, they would find an explanation of Sicard which completely overturned the inference which the noble earl had attempted to draw from this epigrammatic answer. Upon being asked whether he proposed to the princess to go to England, or was ordered by the princess to go, his answer was this:—"I pointed out the necessity, about different things that wanted arrangement in this country, that it would be necessary to come about the sale of the furniture and the number of bills unpaid." With this answer upon their Minutes, their lordships were called upon by the noble earl to draw an inference unfavourable to her majesty, from the circumstance of Sicard having quitted her service. So far from Sicard having been sent away by her royal highness, he had asked the princess to allow him to go to England; he had stated the reasons which rendered it indispensable, that he should proceed to England. A learned lord (Manners) had said, that the circumstance of Mr. Craven having warned her royal highness against Bergami had made a forcible impression upon his mind. Now, he could not help thinking, that an unfair view had been taken of this part of the case. Bergami happened to be the servant walking with her royal highness at the time; and, if their lordships looked at the explanation which Mr. Craven had given of his conduct in this instance, with the statement itself, it would be found, that Mr. Craven had distinctly sworn, that if he had seen any other servant walking with her royal highness, he should have felt it his duty to give her the same warning. He felt that she exposed herself to the observation of the spies, by whom he believed her to be surrounded, and would therefore

have cautioned her against being seen walking with any servant. It was not fair, therefore, to infer guilt from Mr. Craven's conduct on that occasion.

With respect to the case at Carlsruhe, he agreed with his noble friend on the cross-bench, that it ought to be dismissed entirely from their recollection, as in that case one party had been brought up by force to give evidence against the Queen, and another detained by force from coming forward in her defence. Under these circumstances, no tribunal in the world could entertain a charge built upon such evidence. While he agreed entirely with his noble friend as to the case at Carlsruhe, he must admit, however, that the impression upon his mind was, that Barbara Kress appeared to be a fair witness. He was aware that many persons thought differently, but his own impression was, as far as any opinion could be formed in the present unsifted state of the case, that Kress had been herself deceived. It was not certain that this witness had not been imposed upon, and that she had believed that she saw the princess, when, in point of fact, she had only seen the countess Oldi. If he understood the noble earl opposite correctly, he had stated that Kress came forward as a voluntary witness in the cause of truth [The earl of Liverpool assented]. Let their lordships then look at the evidence, and see how far the assertion was borne out. They would see, from the evidence of Kress herself, that the moment her royal highness left the apartments with which she had been accommodated (for what purpose he would leave their lordships to conjecture) by baron Grimm, the first thing Grimm did was, to send for Barbara Kress to ask if she had seen nothing to which she could depose against her royal highness. And yet their lordships were to be told that this woman came forward as a voluntary witness in the cause of truth. It was plain that she was brought to this country by power, and by power alone; and it was also plain that the same power had been employed to keep another witness away, who might have been able to contradict her testimony.

He felt it impossible to close his observations upon this part of the evidence without considering the general bearing of the evidence upon the other parts of the case. He had heard one noble lord say, with great appearance of candour, that he thought it right to dismiss the case at Trieste from consideration altogether. Another noble lord in the same way had said, he gave up the journey to Sinigaglia. But in justice to her majesty, their lordships were bound not to dismiss from their minds the case at Trieste, or the journey to Sinigaglia. They were bound to bear in mind all the cases which had been attempted to be proved against her majesty; they were bound to remember, that not merely in one country, but in different parts of the world, the same practices had been resorted to, in order to degrade her majesty; the same character of falsehood applying to the charges brought against her in these various places, though the counsel for the defence had not been permitted to prove the conspiracy with which the conductors of this prosecution were charged. The counsel had been prohibited, and, perhaps rightly prohibited, from entering into the proof of that conspiracy; but enough had come out to show, that in all those parts of Europe which had been visited by her royal highness, it had been made known—that to speak against the princess was the sure road to fortune. If they believed that a most extensive machinery had been set in motion to procure evidence against her royal highness—machinery which included among its parts individuals of all classes, from the German minister of state down to the chambermaid at an inn—a character, in his opinion, not less honourable than the German minister of state, who could lend himself to such a proceeding—if they believed that such a system had been established, their lordships were bound to consider its effects, not merely upon those witnesses who were proved to have been influenced by it, but upon other parts of the evidence, that of Gargiulo and Paturzo, for instance, which bore the semblance and colour of truth. They ought, in justice to her majesty, to consider the effects of accumulated falsehood; and when they saw a mass of evidence, originating in the foulest motives, and collected by the most unparalleled means, they were bound to give the illustrious accused the benefit of those doubts, which must arise in those parts of the case where her honour had been tarnished by evidence of a character less unequivocally suspicious.

Their lordships had been called upon to compare the evidence of Majoochi and Demont with that of Hownam and Flinn: and it was endeavoured to create an im-

pression, that the same mistakes and the same want of recollection and candour characterised the testimony of all these witnesses. Their lordships, however, must not confound the evidence of those who happen to forget what did exist, with that of persons who recollect what never existed at all. Majoochi had not only professed to be incapable of recollecting what he could not have forgotten, but he recollected circumstances which never happened; for instance, that of Dr. Holland attending upon Bergami in his illness; a circumstance which was disproved by Dr. Holland, and even by Majoochi himself, who, in a subsequent part of his examination, declared he had no recollection of any medical man attending Bergami. He felt it his duty to direct their lordships, attention to this distinction—a distinction founded upon the natural principles of evidence, and which they were bound to attend to in balancing the various parts of conflicting testimony.—There was another circumstance to which he had before alluded, not so much with reference to the case at Catania, as to what had taken place on board the polacre, and other parts of the case. Undoubtedly it would have been more satisfactory to his mind, if the countess Oldi and Mariette had been called to rebut those parts of the case for the prosecution; but he felt that if they had been produced at the bar, from the want of specifications in time and place in various instances by the witnesses for the prosecution, they could not in many cases have supplied a satisfactory contradiction to what had been deposed. But, admitting that they would have been better called, he could not agree with an opinion which had been expressed in that House, in which the learned lord on the woolsack had concurred, that Bergami himself should have been produced as a witness. Now, whether he, being placed at the bar, had on oath, admitted or denied the charges against her royal highness, his evidence would not have weighed one feather with any candid or honourable man. Not many years ago, in a case of divorce, tried before the court of session, it being proposed to call one of the parties to prove his connexion with the woman to whom criminality was imputed, one of the most eminent judges that ever sat upon that bench, said that he was bound to tell the court that if he (the judge) were called upon to give evidence of his intercourse with the other sex, he should consider himself, under circumstances of such peculiar delicacy, absolved from the ordinary sanction of an oath. He (lord Lansdown) would not give any opinion upon this point; but, if such were the sentiments entertained by a learned judge, surely their lordships could place little reliance upon such testimony on the part of a man less conversant with the forms of justice, and less sensible of the importance of an oath. Their lordships would recollect that when major Hooke was called to their bar, in a case of divorce, and swore that he had had no intercourse with the lady whose case was then before the House, he was not believed; nor did his testimony for one moment shake the opinion which their lordships entertained as to the existence of criminality.

He wished to make a few observations on the witnesses that the prosecutors of the bill could have produced, but which, for their own reasons, they had not produced. And here he must be allowed to say, that in keeping these witnesses back they had adopted a far different view of the case than that which they themselves had originally laid down—a view different not only from that professed by counsel, but from that which it was alleged was to guide, not their own decisions as prosecutors, but their lordships' decisions, namely, the investigation and attainment of truth. The real cause to be tried, was said by the ministers of the Crown to be Truth *versus* the Princess of Wales. If the noble earl opposite had been asked at the commencement, supposing any evidence to be prepared, which, while it threw suspicion upon the agency by which these charges had been collected, bore materially in favour of the princess of Wales; and if that noble earl had been told that the greatest efforts would be made to suppress that evidence, would he not have declared that he would be the last man in the House to countenance that suppression? Let their lordships mark the way in which they had been directed first of all to proceed, and the measures into which they were afterwards drawn. Let them remember that it was at Naples where that foul and licentious system of crime had been described to have originated. And yet Dr. Holland, standing in that peculiar situation which gave him the best opportunity of ascertaining the truth, being independent of her in circumstances, owing her nothing on the score of gratitude, and having an op-

portunity of securing patronage, honour and emolument, if he could have been swayed by any other motives than the dictates of his honourable mind—Dr. Holland swore, that no inquiry had ever been made of him by any one of those prosecutors, respecting the conduct of the princess of Wales. Not only was Dr. Holland overlooked by those inquirers in search of truth, but a very material witness, Maurice Credi, had been kept back from examination at that bar. It appeared also that the very woman who had the care of the linen, and whose business it was to attend to the making of the beds, at the very time the adulterous intercourse was alleged to be going on, Annette Preising was not examined. She was the best witness to prove adultery or no adultery. The prosecutors, the anxious inquirers after truth though able to produce her, have never ventured to examine her. She was in this country, it was said in Cotton Garden. When he recollected how the counsel for the Queen, who had the interests of their client to consult, had been taunted on account of holding back particular witnesses; and when he considered that, on the part of the prosecution, it had been professed that the only object was the discovery of truth, he considered that the House, as well as the Queen, had been hardly dealt with, when they were not allowed to see that evidence which, if the accusations were true, must have distinctly and satisfactorily proved them.

With regard to other parts of the case, which when connected together, led some noble lords to found upon them a presumption of adultery, he must at once declare that he could join in no such presumption. That there was evidence of some impropriety and indelicacy, supposing that their lordships could entertain a charge of that nature, he would not dispute. But he hardly thought the House would think itself justified in trying any individual, and much less the Queen of England, upon a charge of alleged impropriety. If that were possible, he, for one, should certainly not hesitate in the verdict which it would be his duty to return. He would take care, however, at the same time, not to express it in the harsh and unqualified terms which he had heard, even in that House, applied to the conduct of this illustrious and unfortunate individual. His verdict must be accompanied and connected with a remembrance of the peculiar situation in which she had been placed; and he should not think that he was dealing with that humanity which best became the infirmities of our common nature, if he were to overlook the numerous circumstances that ought to qualify and mitigate his censure. In every condition of life we derived our chief support in the discharge of our moral duties from the consolations of friendship, from an intercourse with society, from the respect and value attached to character, from intimate connexions and near relationships. It was seldom, without all these aids and supports, that moral obligations were fulfilled satisfactorily to ourselves or others. On the present occasion, he was bound to advert to some circumstances, although he meant not to go into their merits, which must have influenced his judgment, had he been called upon to pronounce it on the general conduct of the Queen. He would, however, go no farther than to suggest, that any person who had to act a solitary part—for whose conduct there existed no fixed rule—who was left unguided by any of the lights afforded by a situation more known and definite, had strong claims on their indulgence and liberality. It was in consequence of what he had heard thrown out upon this subject a few days since, that he thought it right to make these few observations with regard to it. He did not offer them in mitigation of any fault of which their lordships could take cognizance, for he would contend, that they had no authority to pass any judgment upon it whatever, and far less the present bill.

The nature and character of the bill merited, indeed, particular notice, and he should be sorry if the House were to come to a decision without deeply considering them, independently of the question, which rested on the evidence alone. Far from thinking that this was not a stage of the bill for discussing its expediency, he conceived that they were bound, as patriots, as statesmen, and as legislators, to go at present into that discussion. A noble earl opposite had said, that a bill of Pains and Penalties carried a bad name with it. Long, he trusted, would it so continue to carry a bad name! The noble earl had said, that this measure might be called a bill of Pains and Penalties, but, after all, what was it but a common Divorce bill? In this observation he had been seconded by a learned lord on the cross-bench. It came, however, with an ill grace from those who had ori-

ginated this proceeding, and who, at its commencement, had, in order to enable the House to act as judges in the cause, proposed a committee to search for precedents—into what? Into precedents of bills of Divorce? No; but into precedents of bills of Pains and Penalties, and, under the pretext and colour of which special character, the important precedent of the duchess of Norfolk had been excluded from its report. And now, when the whole weight of the present measure was about to fall upon the Queen's head, these same noble lords turned round, and asserted that it was only a common Divorce bill! This measure was as different from a Divorce bill, as a bill to give relief to the subject differed from a bill to inflict punishment. Relief was the only object of a Divorce bill; and if it punished, it punished incidentally. Here punishment was the object; and, if it could be supposed that relief was given, that relief was incidental. The legislature interposed on this occasion, because there was no law in existence which was applicable to it. Could their lordships, then, conceive that any justification was to be found by flying to the shelter of bills of Divorce, in a case where no proceeding had taken place in any of the courts below—where the inquiry was conducted in a manner altogether novel, and went throughout on doubtful and imperfect evidence? This would be to deal out the harshest measure of justice that ever was administered by any legislature pretending to distinguish between right and wrong, and would be an infringement not only of the Queen's rights, but of the rights of every subject of the realm. The bill was more harsh and violent in its operation than any former bill of Pains and Penalties; and might well be, as it was, unpopular, not only with the mere rabble, as they had been called, and who had been described as knowing nothing of its nature, but with the middle and thinking classes of the community, with those classes who constituted the most valuable part of the moral force of the nation. Every writer of reputation, every man of wisdom and virtue, had held such acts of legislative authority in abhorrence. The present generation enjoyed the inestimable advantage of being instructed by the labours of men whose genius had shed the light of day on many of the most interesting branches of political science. There were few now sitting in that House who had not availed themselves of this advantage, and who did not bring to this discussion minds enlightened by a perusal of a Blackstone and a Paley. If, then, they found Blackstone, when commenting on the laws of his country, and Paley, in treating of the principles of morals and their effects on public and individual prosperity, uniting in their condemnation of such bills as the present, and regarding them as a mockery of justice; if it was seen that Blackstone receded from an explanation of the term "Bill of Pains and Penalties," lest he should be supposed to view it as part of our established system, and that Paley described all such proceedings as anomalies that seldom failed to be attended with consequences which all good men deplored, surely their lordships would pause before they gave their final sanction to so odious a measure. Was it wonderful that, under the guidance of these great authorities, the instructed part of the people should be averse to all laws of this kind? As a legislator, he was bound to consider the effect of a law on the people at large, before he consented to it. Their lordships must not forget that they were about to pass a law, and not to pronounce a sentence. They were not administering the laws but making a new law, on a supposed ground of public convenience. Like all other laws, it must be left to work its own way, when it should have passed; and they could not, therefore, be too cautious in calculating beforehand its probable effect on public opinion. With reference to that effect, the bill appeared to him to be highly inexpedient. It would be regarded as a violent application of violent means, having no other foundation than a presumption arising out of a bare possibility. It would be said, that because the princess of Wales and her chamberlain were found reposing under the same awning, on board ship, and there sheltering themselves from the ardour of the sun—because they were in a situation in which adultery might have been committed—the House of Lords thought proper to infer that it must have been committed. It was from what was supposed to have taken place on that occasion, that the expressions in the preamble must derive their justification. It was there asserted, that great scandal and dishonour had been brought on this country. Now, he should be glad to know in

whose eyes this great scandal and dishonour had appeared, or had been reflected on the British nation ? In the eyes of the world ? No, but in the eyes of Gargiulo and Parturzo. They were the representatives of all Europe, in proclaiming the scandal which was said to have gone forth so widely ; they best knew how far our national character had been defamed. No eyes had witnessed except their eyes —no opinion on the subject had been formed except by this pious uncle and his modest mate ! They, it seemed, out of some regard to the fame and reputation of a country whose ships and sailors they had occasionally seen, kept the secret in their own breasts, and never dreamed of disclosing it till the Milan commission was instituted. Nay, he verily believed that had either Gargiulo or Paturzo been asked six months ago, what were their feelings and impressions of the English character, as arising out of the voyage in question, the only answer would have been, that they had not made the *buono marcato* which they expected.

To revert, however, to the subject of public opinion on the measure now under consideration, it was certainly difficult to appreciate all the mischief of which it might be productive. Their lordships had heard of bills for altering the succession, and the ground upon which the present measure was recommended would apply equally to a bill for that purpose. It was founded on an expectation of advantage to public morals. Without any particular allusion, he might here remark, that, in the natural course of events, queens might succeed to the throne as well as kings. Should any small number of persons, from the peculiarity or malignity of their nature, or pushed by their situation into desperate courses, collect together a variety of circumstances not creditable to the moral character of some member of a family which had no right to the throne of these realms, but what was given to them by an act of parliament—the same sort of title which the Queen derived from her Marriage act—was it not obvious, that the most fatal consequences might ensue, if the principle now adopted should be adhered to ? No matter whether the satements and charges made by the small number of persons to whom he had alluded were true or false—and no time there would be when Sacchis and Restellis would be wanting. But upon the principle of this bill, as set forth in the preamble, the legislature would be bound to take the charges into consideration, to sit in judgment on the moral conduct of the illustrious defendant, whilst the nation divided itself into parties on the question, whether or not he should be set aside, and forfeit his title of succession to the throne. Immoral example, scandal and dishonour thereby brought upon the kingdom, were the only pretext for passing the present measure. Because six years ago, or rather during the three years which preceded the last three, the princess of Wales was said to have pursued a line of conduct calculated to produce an immoral effect, it was inferred that she would now resume that bad example, and that it was therefore necessary to depose her from her state of Queen-consort of these realms. Why, let this precedent be established, and add to it one or two more of the same kind, and they would arrive at elective monarchy. Elective monarchy stood on no other principle than the effect of personal character in the sovereign on the condition of the governed ; and the great basis of hereditary monarchy was, that under it such guards and securities might be established for the subject as would render him independent of the personal character of the individual who swayed the sceptre, and the personal character of the reigning family. If they were to incorporate the policy of this bill into their system, occasions would soon arise for bringing out into active contention all the inflamed prejudices and political passions of the country, and the foundation of an elective monarchy would be laid. Was there, then, any public interest for the formation of a precedent so alarming ? None that he could possibly understand.

He now came, however, very near to his conclusion, and should trouble them with a very few additional observations. He was aware that many noble lords, although no pledge or suggestion had of course passed to such an effect, would give an unwilling support to the second reading of this bill. They flattered themselves that it might afterwards be got rid of in some way or other ; many were inclined to think (each looking to his own favourite mode of escape), that the bill might be greatly mitigated in the committee, and some even conceived that the second reading was one step towards throwing it out. If this offspring of the

wisdom of government were once adopted and cherished to a certain period of existence, they hoped to have the inexpressible gratification of witnessing its funeral.

"Ducitur iratis plaudendum funus amicis."

A very little attention would show that it was utterly impracticable to mitigate the provisions of the bill. No alteration in the preamble could alleviate the punishment inflicted by the first enacting clause. But it was unaccountably imagined by some noble lords, that by omitting the Divorce clause, they would soften the effect of a preamble in which the Queen was declared to be an adultress. Now this, in fact, would be no alleviation, but a very great aggravation of the punishment? How could it be an advantage to her to be considered the King's wife, after the state had renounced her. If this bill were to pass, his majesty would be obliged by no law to support or receive her. But it would also operate as an additional punishment by disability; for whilst it deprived her of all privilege and protection, it would leave her still exposed to the severe power which the law vested in the King over his wife; so that whilst, by the talked-of alteration in the preamble, they declared the guilt to be less than what had been charged, they would, by leaving out the Divorce clause, render the punishment more severe than was at first denounced; and having done all this, were prepared to exclaim, "There, now we have mitigated the bill!" This was the mitigation which those noble lords in their wisdom was disposed to accede to. He was sure that a very slight degree of reflection would induce the House to pause before they proceeded further in their present course. Up to that minute they were safe: but a few hours must decide whether they would now, and to all future times, connect their name with such a proceeding, and, whether the bill should finally pass or not, inscribe on an eternal and indelible record, that having convicted the Queen of guilt by a presumption drawn from a possibility, they instantly proceeded to pass a law to carry their judgment into effect. Against the further progress of the measure he most solemnly protested.

The Duke of *Northumberland* said, he considered that the allegations contained in the preamble of the bill were satisfactorily and substantially proved. He had anxiously attended to the preliminary arguments against the introduction of this proceeding, to the evidence, to the speeches of the counsel for the prosecution and defence, and to the eloquent discussions which had taken place since the case was closed; and in his conscience he was convinced that a long course of gross and most indecent conduct on the part of the Queen, and an adulterous intercourse between her and Bergami had been established. With that conviction on his mind, he could not consent that she should enjoy that station in society, and claim that respect which belong to the Queen-consort, or that she should be placed at the head of female society and morals in this kingdom. Upon these grounds he had no hesitation in saying that he should vote for the bill as it now stood, unless by some minor proceedings in the course of the bill the personal influence of her majesty should be removed. Remembering that she was the niece of our late venerable monarch, that she was the descendant of a race of heroes, and that she was one who, to say the least of it, did not enter upon her career under the most auspicious circumstances in this country, it was with pain and regret that he was compelled by duty to vote for the second reading of this bill.

Lord *Howard* said, he had attended to all the different stages of this proceeding, and had concurred in the expediency of the inquiry which had taken place. Under all the circumstances which followed, however, and from the view which he took of the evidence, he did not think that the preamble of the bill had been sufficiently sustained. He considered that Majoochi, Demont, Sacchi, and Restelli, were not deserving of credit; he considered also, that other witnesses who had been called were not entitled to the fullest confidence. With these impressions, combined with the fact of Restelli having been sent out of the country —with Kress having been compelled to come over here to give evidence, while the baron d'Ende was not compelled to come—that such a taint had been thrown upon the whole case, as to render it obnoxious and unsatisfactory to the population of the country. He could not assent to this bill unless the charges contained in the preamble were indisputably proved. He had heard a great deal of witnesses who had not been called. On the one

side, the countess of Oldi, Schiavini, and Mariette; on the other, Riganti, Preising, and others; but the only conclusion to which this led him was, that the case had not been established by that clear and indisputable testimony which he thought would justify them in passing such a bill; and, entertaining this opinion, he thought it his duty to vote against it. As a measure of legislation, too, he had always thought this bill inexpedient. He might not be at liberty to allude to the House of Commons; but still he could not help saying, that it did not appear to him that this bill would ever pass there. Taking all these circumstances into view, he looked upon this measure as inexpedient. He agreed that suspicion was strong; but still the evidence was not sufficient to satisfy a judicial mind, or of such a character as imperatively to call upon them to agree to the bill.

The Earl of *Enniskillen* said, that although he had supported the bringing in of this bill, he yet thought, upon an occasion of this nature, that every man should be guided by his own judgment. He had attended to the evidence strictly and impartially; and had done his utmost to understand it. He considered, upon the whole, that it was so inconsistent, that it comprised such a mass of contradiction, and was so suspicious, that he could not possibly consent to convict any person upon it. He, therefore, should vote against the second reading of the bill.

Lord *Calthorpe* said, that considering the strong conviction which he entertained that gross and degrading familiarities had been proved against her majesty —considering, also, that the reasons which he had urged against this bill, on its first introduction, were all of them now redoubled in weight and importance —he should be guilty of forsaking his duty if he did not state the reasons for the vote which he intended to give. He by no means meant to say, that no bill of degradation would be a proper punishment for the licentious conduct which had been proved on the part of her majesty; but if the present bill were fully justifiable in all other respects, looking at the peculiar circumstances of her majesty's situation, he must say that the same moral necessity, which, under the circumstances of gross and aggravated licentiousness that had been established against her majesty, might be supposed to render a bill of degradation necessary, would as loudly call for the omission of the divorce clause. As, under all the circumstances of the case, he considered the divorce clause as utterly inadmissible, he would beg leave to view the bill simply as a bill of degradation. In that view of it, he would shortly state why he thought it ought not to pass. He should think it a proper punishment, if, after proving the case of guilt, which, in his opinion, had been proved against her majesty, it had also been proved that she had voluntarily relinquished her connubial rights. It ought to be recollected, however, that that abandonment was not her own choice. On that fact, and without alluding more particularly to the letter in evidence before their lordships, he must say, without the least disposition to extenuate her majesty's conduct, that a bill of degradation was, in his opinion, not justifiable. And by whom was the proposed punishment to be inflicted? By the state. Of whom was the state composed? First, of that House; in this particular case the accuser and the judge. But, were there not circumstances of neglect, to say the least of it, on the part of that House, which impaired their power of passing a measure of such extreme punishment towards her majesty. Was it becoming and proper on their part to allow her majesty, whose character belonged to the public, to leave the country without any remark or representation, that by withdrawing from the country she was forfeiting the protection of public opinion, so powerful in this country? Ought it not to have been represented to her, that by removing to countries where the standard of morals was so much lower than in England, she might subject herself to increased temptation, and to events, which, as matters of state, might one day be the subject of public investigation? For this omission on the part of that House, he considered that they were deeply responsible; and that they had forfeited all right of inflicting any such punishment on her majesty as a bill of degradation involved. The other House of Parliament certainly shared in the same responsibility, although in a less degree, owing to the members of it having been twice changed. But then they came to the last party in the state—to the party by whom the measure must be completed, if it should ever become the subject of legislation. He would ask their

lordships, whether, in such days as these, it was desirable to expose the kingly power to the reproach and odium which the royal assent to the bill would infallibly bring upon his majesty, whether he was considered as husband or as head of the state? Was it desirable at the present moment to ask the royal assent to a measure, degrading the consort of the Crown? On these grounds, he could never give his sanction to such a measure; he could never, as far as he was concerned, allow it to stir a step towards its completion. By voting for the second reading of the bill, he should sanction a principle which he could never recognise as applicable to her majesty under her special circumstances; and admit the right of parliament to inflict a punishment which he did not think they were qualified in inflicting on her.—With this strong feeling against the bill, he confessed that he had a feeling no less strong as to the proofs which had been established of her majesty's guilt. He was compelled to say that her majesty's conduct had been most gross, indecent, and degrading. He could not palliate it. He felt that the laws of God, that the tranquillity of his own conscience, that the peace and welfare and honour of public and of private life, forbad that such offences as those of her majesty should be called by soft and extenuating names. It was on this ground that he felt most strongly and painfully the distressing dilemma in which that House was placed. He viewed the House of Lords, as the especial guardian of the public morals; and he could not help deeply regretting, that he and those noble lords who thought with him, that guilt had been proved against her majesty, of the most offensive and degrading nature, should have no alternative presented to them but either to acquit her majesty or to support the present most objectionable bill—a bill, which, whether considered with reference to its origin, its principle, or its penalties, appeared to him to be equally objectionable. It was certainly highly desirable that some course should be offered to their lordships, by which, without agreeing to this measure, they might, nevertheless, express their sense of such conduct as had been proved against her majesty, and he could not help wishing that his noble friend (lord Ellenborough) would persevere in making some proposition which would enable their lordships to record their sentiments on the subject. He conceived that that House, as the guardians of public morals, owed it as a duty to themselves to vindicate themselves to the country, by a declaration of their opinion of the licentious conduct which had been proved against her majesty. He was sure that the mischievous effect on the public morals which the discussion of the subject had produced, would be much increased if they abstained from publicly recording their sentiments of conduct such as that which had been proved against her majesty, by unsuspected and uncontroverted testimony. He was far from wishing to undervalue the influence of public opinion. He agreed fully with his noble friend, who had said, that on every subject, public opinion in this country at last came right. But, appreciating public opinion as he did, he thought that one of the unhappy effects of the present measure was, that it too easily and naturally, by the form given to the proceeding, enlisted the warm and generous feelings of the community on the side of licentiousness. He thought the House owed it to the country, having made themselves instrumental in pouring over it such a mass of odious and disgusting evidence, at least to endeavour to make some compensation for the evil which they had caused. In this view of the subject, he could not vindicate the conduct of his majesty's government in having originated a measure like the present. He was aware that great allowance ought to be made for the peculiar and trying situation in which they were placed. But, he so far agreed with a noble lord, that if they had consulted that faithful guide, public opinion, they would never have brought this measure before the country in this particular shape. He could not acquit them of culpability on this ground. But he must say, in justice to the noble earl at the head of his majesty's government, that although he was persuaded that noble earl's character and the credit of his government would have stood higher if this measure had never been brought forward, the noble earl had certainly conducted himself during the whole proceeding with the utmost fairness, manliness, and candour, and had shown the influence—in this country happily never feeble—of personal character. That the noble earl, at a moment probably when he was on the point of resigning the reins of government

in that House, should undertake a duty, perhaps the most painful that ever devolved on a minister of the Crown—entitled him to a great degree of public respect and esteem. With respect to a large number of the members of that House, who, in the early stage of this proceeding, seemed to be the peculiar objects of obloquy and reproach—he meant those noble lords who habitually supported his majesty's government—he felt himself entitled to say, from his own observation of the conduct of those individuals on this occasion, that he never saw greater fairness, greater anxiety, or a more determined desire to act according to the dictates of their conscience, than had been displayed by them; and he was persuaded that, if this measure should be pressed to a further stage, the conduct of that House would prove, more fully than it had ever yet proved, that it deserved to rise in public estimation, by showing that the love of justice, which was cherished in all other classes of the community, was equally reverenced here. He could not sit down without again entreating his noble friend, who threw out the suggestion, that, by address or resolution, their lordships should declare their sentiments on this important occasion, to follow up that idea, and thus afford to the House an opportunity of vindicating its own moral character, and of protecting the character and honour of that sex, whose moral virtues formed the chief delight and ornament of civilized society. With these impressions, he felt himself compelled to vote against the second reading of the bill.

The Marquis of *Stafford* said, that both on the ground of justice and of expediency, the measure before the House appeared to him objectionable. The learned lord on the woolsack had advised their lordships to "be just and fear not." He also would say so; and he would beg leave to proceed with the quotation—

> "Let all the ends thou aim'st at be thy country's,
> Thy God's and truth's."

Lord *De Clifford* said, that although he had made up his mind to a particular view of the question, still he could not suffer himself to give a silent vote on it. The charge against her majesty was, that she had carried on an adulterous intercourse with a person of low condition, and in a most disgusting manner. But, in the course of the evidence, much contradiction appeared, and many palpable falsehoods were detected. The main case was not therefore supported, although there was ground for believing that her majesty had been guilty of much impropriety of conduct. In considering the case, he could not altogether forget the unfortunate difference that existed between her majesty and the king—a difference which it was probable, occasioned that conduct they were now investigating. It was supposed that her majesty's residence in this country would be attended with ill consequences; but he could scarcely suppose that she could wish to remain here, when her residence could not be attended with any degree of comfort to herself. Rejected, he was sure, the bill would be, in one stage or another; and certainly the sooner they got rid of it the better.

Lord *Grantham* said, that feeling on the question before their lordships a difference of opinion from those who generally received his public support, and who invariably possessed his private esteem, he could not refrain from stating the reasons by which his vote would be influenced. It had been well observed, that the decision of that House ought to be influenced only by evidence unsuspected and unsuspicious, and which must bring conviction home to every impartial mind. Now, he had paid the closest attention to the evidence, and he could not, in his conscience, say that it had turned out to be of that character. It had been said that enough had been proved to be decisive in ordinary cases and in an ordinary court; but the present was not an ordinary case, nor was that an ordinary court. Their lordships were engaged, not in an inquiry whether any offence had been committed against the existing law, but in framing a new law to meet an existing offence. For his part, he saw so many difficulties in the way of passing the bill in that House—so many difficulties in the way of passing it in the other House—so many difficulties of every description against which no human foresight could guard, even if the bill should pass both Houses, that he could not help thinking the wisest and best course would be to put an end to the measure at once. He was perfectly aware that such a proceeding would also be attended with some difficulties. He was aware that it would be attended with triumph to a mischievous

and malignant faction, who cared no more for the Queen than they did for the most indifferent object to them on earth, but who availed themselves of what they called the Queen's cause to pervert the judgment and to inflame the passions of men better intentioned, though less informed than themselves. He was aware that to such persons the rejection of the bill would be a temporary triumph. He believed, however, that it would be only a temporary triumph; for he was persuaded that the good sense and sound feeling of the country would hereafter form a right judgment of the merits of the case. Before he sat down he thought it right to say, that if the present were a common case on which he was called upon to pronounce a verdict of guilty or not guilty, he should know how to make up his mind on the subject. Undoubtedly, there was much contradictory evidence which was subject to very grave suspicion. The credibility of many of the witnesses had been questioned; but that of others had not been at all affected. The evidence of the Queen's own witnesses had been seriously adverse to her; and, which was a very suspicious circumstance, there were many important witnesses who might have been called on her majesty's part, and who had not been called. Under all those considerations, although he would say "Not content," he could not lay his hand on his heart and say "Not guilty."

The Earl of *Blesington* said, that though the evidence had been so fully discussed, there were two or three points to which he begged leave to call their attention. A noble lord opposite, observed on Saturday, that the polacre case was quite sufficient, and that upon this the evidence remaining uncontradicted, his mind was made up. Now, it did appear to him, that neither the evidence of Gargiulo or Paturzo was untouched. Paturzo stated, that when certain transactions took place on the deck, his relation, Gargiulo, sent him away, sometimes on one pretence, sometimes on another. Now, when Gargiulo was examined to this fact. he denied any recollection of it; but he afterwards, on being pressed, acknowledged he had sent Paturzo away once, and but once only. In another part of his evidence, in which he wished to show that great indecency, if not adultery, had been committed on the voyage (he alluded to the situation of the bed on deck), he was contradicted by two persons. It was asked, "Why have not her majesty's counsel brought forward the countess Oldi?" If he had been acting as counsel, he would not have produced her, after the manner in which lady Charlotte Lindsay had been cross-examined by the solicitor-general. She, the daughter of a prime minister, and the sister of an earl, was called on to disclose private communications that had taken place between her and her husband—to procure a letter that was supposed to have been written to her by her brother, relative to leaving the princess's service—and she was obliged, with tears, to acknowledge her own misfortunes. If such were the conduct pursued towards this lady, what sort of an examination would the countess Oldi have undergone? This was not a case like that of Isabella and Mortimer—she a woman of 30, and he a man of 50—where the paramours were actually discovered together. The Queen said "I come before your lordships with confidence—I am ready to abide by the laws of my country—I do so with a full conviction that nothing will weigh with your lordships but the laws of the state and the principles of equity." But this bill, he contended, was contrary to equity; and, if they passed it, they would, instead of adhering to the law, be sanctioning a new measure, founded on evidence that had been disproved and refuted.

The Earl of *Gosford* said, that from the evidence which had been adduced at their lordships bar, had this been a case of impeachment, he must have been under the painful necessity of pronouncing a verdict of guilty; but he could not for many cogent reasons, give his vote for a measure, which was pregnant with danger and difficulty. He expected, when a case of this kind was introduced, that it should be supported by such decided evidence as would convince every mind. This had not been the case here. He would not listen to any thing dictated by faction, violence, or clamour. But he admired the generous, independent, and loyal feeling of this country; and that feeling he believed to be hostile to the measure. Their lordships could not, he conceived, take more effectual means to allay the irritation which at present prevailed in the public mind than by throwing out this obnoxious bill. He could not see how any man could vote for it without the divorce clause; and he knew not how any man could vote for the measure with

it. The greatest difficulties attended the progress of the bill. The farther they advanced, the more those difficulties increased; and therefore, he conceived, they ought to abandon it at once.

The Duke of *Athol* said, he never rose with so heavy a heart as he did on the present occasion. The vote he was about to give was dictated by a sense of duty, and by a feeling of honour and conscience. Other noble lords took a different view of the subject from that which he entertained. He gave them credit for the purity of their motives, and he claimed the same liberality himself. The evidence in this case was so clear and convincing, as to leave no doubt on his mind. They had for nearly fifty days been occupied with this subject; and having attended with as much consideration as possible to every thing that had occurred at their lordships bar—to all the evidence that had been adduced—to every argument that had been advanced for and against the measure; having marked with attention the eloquent speeches of many noble lords, he declared upon his honour, as a peer of parliament, that he considered her majesty's guilt to have been proved even by her own evidence. Thinking so, he should feel himself unworthy of a seat in that House if he did not state his opinion. If, then, the charges were well founded, what was the House to do? He did not profess to be lawyer sufficient to enter into a discussion of the history of bills of this nature. It was for him only to express himself, like a conscientious juror. The question for them to consider was, whether this bill should go to a second reading or not? He would not detain their lordships by stating the evidence, and commenting on those disgraceful scenes which it disclosed. He could not, however, but observe, that many noble lords, who had given their opinion against the further progress of this bill, had, at the same time, stated that they believed the Queen to be guilty. That they should vote against the measure surprised him greatly. They must have recollected that it had been incontestably proved that for 35 days the Queen was within a tent alone with Bergami. Even her majesty's counsel admitted the fact. Did not this afford ground for more than suspicion? Standing in the situation of the father of a family, it became his duty, when called on, to state what construction he put on such conduct; and, in his opinion, no construction could be put on it but one—that of a cohabitation between the sexes. Well, then, some noble lords said, there was a ground for suspicion, while others asserted that her majesty's guilt was proved. What were they to do in this case, where impropriety of conduct could not be denied? Were they not to take some means to support the morals of the country? With whom was the guardianship of those morals to be intrusted, if not with that grave and dignified assembly? Could any noble lord, who considered the Queen's guilt to be indisputably proved, permit an individual, against whom such charges were substantiated, to continue at the head of virtuous and polished society in this country? Would they suffer the morals of their wives and daughters to be endangered by such an example? They had a serious duty to perform, and they were bound, for the preservation of female purity, modesty, and chastity, to take some notice or other of the Queen's offence. If, in the committee, alterations were proposed, or resolutions were submitted to their lordships, such as appeared to him sufficiently strong to save the morality of the country, to express the sense of the House, and to preserve, in future, the purity of the British name, he should be ready to concur in them. He was of opinion that they ought to read the bill a second time, and then go into a committee, where they could consider whether a resolution could be advisable, or whatever else might appear proper to be done, consistently with the circumstances of the case. Much had been said about the deficiency of the evidence; but he did in his conscience believe, that if that which was proved before their lordships, was substantiated in any ordinary case, it would be considered as conclusive evidence. Every advantage was afforded that could enable her majesty to make out a good defence. Her advocates were most ingenious and eloquent. But their lordships would recollect, that even they admitted the fact to which he had just adverted; and he could not, therefore, lay his hand on his heart, as an honest man, and say that the scene on board the polacre did not prove, to his conviction, the guilt of the Queen. He should vote for the second reading, thinking that when it came before the committee, something might there be proposed to satisfy his mind that a due regard was paid to the morality, and well-being of British society.

The Duke of *Somerset* said, he objected to bills of Pains and Penalties generally, as being of an anomalous nature. The present case was one of extreme hardship, the evidence being chiefly that of discarded servants, who were always viewed with an eye of suspicion. A most material witness for the prosecution had been allowed to withdraw himself; and this circumstance strongly confirmed the suspicion of a conspiracy, which other facts had excited. Several of the stories, too, had been completely contradicted by witnesses of the most respectable character. There were not sufficient grounds for passing a bill of Pains and Penalties. Throughout the discussion there had been a confusion of two things; it was one question whether there had been any impropriety in the conduct of the Queen; it was quite another question, whether there was proof of the guilt charged in the preamble, which alone could warrant a vote for the second reading. If there had been improprieties in the conduct of the Queen, it did not follow that she was guilty of adulterous intercourse. There was direct proof only of the manners of the Queen; there was nothing proved of the state of her morals. The evidence against the Queen was discredited by the manner of giving it; there was the most minute recollection of matters against the Queen; while, on other matters, there was no recollection at all. In judging, too, of the conduct of the Queen, their lordships ought never to forget that she had come a foreigner to this country; that she had been notorious for the freedom of her manners before she was selected to be the wife of his majesty; and that a complete conformity to the manners of this country was not to be expected. In her conduct many extraordinary and imprudent circumstances might be traced; but they were not hard to be accounted for, without any impeachment of her morals. This prosecution had excited feelings of disapprobation throughout Europe. He earnestly hoped the bill would not pass, and he most decidedly and conscientiously, would give his vote against the second reading.

Lord *Grenville* observed, that almost every noble lord who had spoken on the occasion, had described the pain with which he undertook the discharge of a duty so distressing to every honourable mind. In that extreme reluctance he also deeply participated, and even at that late moment of the proceedings, it was not without hesitation that he presented himself to their notice. At the close of a laborious life, which was chiefly spent in the agitations and contests of that tempestuous period which his noble friend had so feelingly and eloquently described on a former day, he did feel that he should be guilty of no dereliction of his public duty if he wished to dedicate to leisure and retirement the few remaining years, for few they must be, which Providence had allotted him. But, were he as anxious to join in their discussions as he was solicitous to withdraw from them, there were circumstances in the case now under consideration, which, especially when coupled with transactions of a delicate nature, in which he had been concerned some years ago, rendered him particularly desirous to avoid taking any part in the present proceeding, either in its progress or at its conclusion. Their lordships, however, had thought proper to require the attendance of all their members, and it was his duty to obey. He therefore did not come voluntarily before them; he did not stand there according to his own wishes, but most reluctantly and unwillingly to perform a task which he had no power to avoid. Under these circumstances, he had doubted whether it was consistent in him to attract their lordships attention at any period of the proceedings. He had no wish to produce the smallest impression on the minds of other judges by any thing that might fall from him. In all other cases in which he had the honour to address their lordships, he was anxious in his endeavours to urge them to the adoption of those lines of policy which were most conformable to the interests of the country; but on that day he felt, for the first time, that almost all the duty he had to perform was of a judicial character, in the discharge of which, after assigning the grounds of his own conviction, he felt no desire to shake or influence the opinions of those who were bound to decide for themselves. But he did feel that, as upon the present occasion so many noble lords who were not in the habit of addressing the House had felt it their duty to come forward and state the reasons upon which they were prepared to vote, for or against the bill, it would ill become him, who had been so often compelled to trouble them, to remain in silence to the last, as if he were unwilling to avow the grounds of his opinion. It was only in

order to state these grounds to their lordships, and not with any presumptuous hope or vain desire to alter their judgment of the case, that he should now occupy their attention for a few moments.

The question was not so much whether that or any other bill should finally pass the House, but whether that bill should now be read a second time. The question he had stated was, like all other questions proposed for their discussion, compounded of the mixed considerations of justice and expediency. Of justice, in the first place, for no man could fairly give his consent to proceeding one step further, unless he was convinced that the evidence produced at the bar was clear and satisfactory in establishing the guilt of her majesty. Without that conviction on their minds, it was impossible that they could give such a vote. It was true that a person might say conscientiously, as many had said, that guilt was established far more fully than could be wished, but still that there were considerations of public interest which rendered it advisable that the bill should go no further. On the first point of this supposition he was bound to say, that if he could bring himself to concur in the opinion of the Queen's innocence, and most anxiously and sincerely he had endeavoured to bring his mind to that conclusion—if he could have believed that suspicion only was awakened, instead of guilt being established by the evidence—he would not hesitate one moment in saying, that the bill ought to stop there. But his opinion was, and he was bound to declare it, that the adulterous intercourse at or within the period assigned, and with the individual named, was much too sufficiently and fully proved.

Many noble lords had told the House, that they considered themselves discharged from the duty of examining all doubtful points of the evidence, because, unhappily, there remained behind enough of the evidence admitted on all hands to be untouched, which made out a clear case to satisfy his mind, amongst others, that the crime had been committed. If any thing could have added to the pain of his present situation, it was the reflection, that this case admitted all points of doubt and suspicion to be taken out of it, and still left sufficient to decide the understandings of men. He had not formed, nor was he obliged to form in his own mind, what vote he would have come to, if the admitted facts had been disputed. It was easy to imagine a case, for there were many such, in which, though some of the grounds that must necessarily be taken into consideration were of a doubtful and ambiguous character, yet, giving to the accused party the full benefit of such doubts, the whole case might assume a complexion which would render it impossible to say what a man might feel himself compelled to do, upon balancing all the probabilities. But, their lordships were not in that situation; they were able to ground their verdict on that part of the case which was clear, and had no occasion to connect it with the disputable part of the evidence. In what was called the polacre case, the circumstances, though separately considered, they were not conclusive; yet, coupled as the principles both of law and reason required that they should be, with the extraordinary elevation of Bergami, were such as to leave upon his mind the most conclusive impression. That elevation, though successive, was sudden; and he was not only raised to high rank, but to the preference of being her constant and almost sole companion. Those parts of the case which referred to gross and indecent familiarity, were supported by seven or eight persons, whose testimony remained unimpeached; so that coupling their statements with the circumstances on board the polacre, a case was made out which his understanding could not resist.

It was true, as had been stated by his noble friend (the marquis of Lansdown), that an accumulation of suspected evidence in any case gave an appearance of falsehood to other parts of the evidence, which but for that would have borne the character of truth; but with respect to suspicious circumstances, the principle was directly the reverse, for in every case supported by circumstantial evidence, though each circumstance considered individually might be slight, the accumulation of all communicated an importance to each, when all concurred in leading to the same fact, and consequently to the same conviction. During the last four years, several horrible cases of murder had been tried, in which the conviction of the criminal had taken place to the general satisfaction of mankind, upon circumstantial evidence only. It was a trite, but a true observation, that circumstantial evidence afforded a stronger ground of proof than that which was direct; for

direct proof might, after all, be false, and there was more difficulty in the fabrication of connected circumstances. If it had been proved against a man charged with murder, that his clothes were bloody after the act had been committed, and that he had had a quarrel with the deceased shortly before his death, those circumstances would be strong, though not conclusive; but if to these were added the circumstances of his absence from home at a suspicious hour of the night, and his being traced to the very spot where the atrocious deed was committed, a jury would probably require the concurrence of very little circumstantial corroboration to justify them in pronouncing a verdict of guilty. In the present case, it was admitted that a menial servant, without any particular merits or services to recommend him, was, in the course of a few months brought to her majesty's table, was made the partaker of all her meals, and adopted into so close an intimacy, as could not have taken place if the most intimate connexion had not been established. If these were the sole facts in evidence, though taken by themselves, they amounted only to suspicion, still it was impossible to say that some strange caprice might not have influenced her majesty's mind, which, though no man could approve or defend, it would be the height of cruelty and injustice to consider as proofs of guilt. It was possible, barely possible, that such familiarities might have been admitted without the commission of the crime. He felt it difficult to recognise the possibility, but still it was possible. Yet when they came to combine with that the transactions on board the polacre, when they found the person accused sleeping under the same tent with Bergami, that tent excluding from its interior all other persons, insomuch so that even those who unwittingly approached it withdrew immediately as from a forbidden place; when they combined it so, they had a case so clearly made out by circumstantial evidence as to satisfy the most scrupulous mind. For his own part, he did not know how to come to any other conclusion, because, as far as he had ever heard, it was upon such proof that the majority of the cases were decided in this country. But when that was coupled with the total absence of all legitimate excuse (for not one excuse had been set up which could satisfy those who had listened), he was sure that, whatever the opinion of any individual might be as to the whole case, no one could think that there was any justification of necessity or even convenience, for the intercourse to which he was alluding. He would admit, that if there was any ground of doubt on the subject, their lordships were bound to give the benefit of it to the accused. God forbid that any man should do what a noble friend of his had attributed to some—the injustice of taking all the presumptions out of one hand into the other, and only admitting such as made against the accused party. He had particularly weighed the arguments of his noble friend with respect to the polacre, and the result was, that they had no weight with him. It might, perhaps, happen, though he could not conceive how it could, that the parties sleeping under the same tent for so long a period were free from any guilty intercourse. If the lady had shown him no former preference, one would be glad to take hold of the circumstance to favour a presumption of innocence. But who was the person selected to sleep there? The very person who was not only proved, but admitted to have been raised by her to the situation of her most familiar companion. Had there been no previous impropriety, perhaps the position of his noble friend might be maintained; but, unfortunately, in that case there were facts, which must lead to an opposite presumption. The person admitted into the tent had been raised by her majesty to a rank to which he was not naturally entitled, and to an intercourse of familiarity, to which it would be hard to state any thing that could fairly entitle him or any one, considering the vast distance between their respective stations; and these familiarities were proved by witnesses whose testimony was not suspected.

Then, he said, and with the deepest pain, that he could feel no doubt of the guilt of the illustrious person accused. If their lordships came to the determination that there was not sufficient ground of conviction upon such circumstantial evidence, and of clear and direct proof, then they must determine that in no future case could a tribunal in this country convict upon such evidence, and that adulterous intercourse never should be established but upon ocular proof. He needed not tell their lordships that it was impossible to find such proof in ninety-nine cases out of a hundred. He founded his con-

viction, then, on undisputed, admitted, and proved facts. The facts were those which he had stated as shortly as possible —which he had been called on to state, when it would have been a great relief for him to abstain from saying any thing on this case. With this impression on his mind, he felt himself compelled to say, "content" to the second reading of the bill.

He would now offer a few observations on the expediency of the measure. He admitted that there was no stage of such a bill, in which the question of expediency could be put out of consideration altogether. But if there was any stage in which expediency was not indeed to be wholly excluded, but where it ought to form the least part of the consideration by which their lordships oath was to be regulated, that stage was the present. He was not here, nor in any stage of the bill, to give an opinion as to what was the most eligible and desirable mode of proceeding. On that subject he had never been called on to give an opinion. Their lordships having agreed to adopt the present form, and a bill having been brought in and read a first time, they had fixed the time for its second reading, and had ordered the attendance of members. Though he was far from being excluded from the right, which every peer possessed, of urging their lordships, before the evidence commenced, to re-consider that vote, yet he looked upon that point as settled, and considered it his duty to wait for the present vote on that course on which the House had determined, intending to regulate his vote by the failure of the establishment of the charges contained in the preamble of the bill. He had cast his mind to consider whether there was any other course, and the result of all the deliberation which he could bestow on the matter was, that he knew not how those of their lordships who were convinced of her majesty's guilt could do otherwise than vote for the second reading of this bill. The question, therefore, with regard to the second reading, was, merely, whether they should proceed to pronounce that judgment, on which the minds of some of their lordships were determined, or break off the proceedings abruptly, and leave this great and momentous question deferred, but not decided by the majority of the House. He would ask those who did not think the proofs conclusive, whether, if a majority were of that opinion, it would not be the greatest and grossest injustice to deprive the individual accused of an opportunity of ending this proceeding by a complete and decided acquittal? It would be the height of injustice to determine that the proceeding should drop without an explicit declaration of opinion as to her majesty's guilt or innocence. As to the motives that might influence their lordships minds in coming to a decision on that question, he was fully aware, that many persons might vote against the second reading of this bill, as indeed many noble lords had declared their intention of doing, not from a conviction of her majesty's innocence, but from a dislike of the form of proceeding adopted. On the other hand, however, none could vote for the second reading in whose minds there was not a confirmed assurance of her majesty's guilt.

He had only a few words more to add on that which their lordships might have to decide on a future occasion—namely, whether this bill should pass. But before any man, holding the opinions which he entertained, could determine what vote he should give on that question, there were two things that must be carefully considered. Their lordships must in the first place consider to what extent guilt appeared to be proved against the party accused, not in the opinion of one person or of another, but in the judgment of the majority of the court; and then that degree of guilt could only be marked by adopting the preamble of the bill as it stood at present, or in some other altered form, such as might be agreed on by their lordships; and if the House should not concur in the extent of guilt, the party accused would, as in other cases, be entitled to the benefit of their lordships doubts. There then only remained to be considered, what was the nature and what the proportion of punishment that ought to be affixed to that guilt. On that subject he had heard opinions delivered, and indications of intentions expressed, to a degree that must have disgusted the House. It had been suggested, that the present enactments of the bill might be altered by the omission of the clause which was originally intended to make a dissolution of the marriage-vow. He had felt considerable difficulty on the subject, and he meant to leave his mind open to the consideration of that question, as he had done in every part of the case, down to the latest moment at which any thing

could be stated to influence his decision. But, as the matter at present stood, he did not see on what grounds it was possible to exclude that enactment from the bill. He did not see how it was possible, if the bill were passed at all. He intended to keep his mind open to conviction, and if any change took place in his sentiments on this point, he should, in explanation, state the grounds that had produced that change. In the view which he took of all the various parts of the case, he thought it his duty to vote for the second reading of the bill. In coming to this conclusion, he did not exclude the expediency of the measure from his view, nor did he overlook the present alarming state of the country; but all the eloquent appeals which he had heard had not produced in his mind the conviction, that there would be less public mischief occasioned —that the public evil which was now hanging over the country was more likely to be averted—by the sudden termination of the present proceeding, than by the second reading of this bill.

The Earl of *Rosslyn* said, he gave his noble friend full credit for the declaration made at the outset of his speech, that in delivering his opinion on this subject he was not anxious to influence the judgment of others. But the arguments of his noble friend, notwithstanding this declaration, did appear to him to be calculated directly to influence the vote of the House. He agreed with his noble friend in thinking, that circumstantial evidence was of great importance; and he also admitted that his noble friend had truly described the nature of such evidence, when he said that it applied to those cases in which a number of circumstances all concurred to the same end—that was, to the same act—so that it appeared to the human mind next to an impossibility that that act had not taken place. He admitted that such circumstances so concurring, ought to have, and must have, great weight; but let him apply this principle of evidence to the present case. Would his noble friend tell their lordships that these circumstances, the character of which he had defined, applied to this case, and tended to exclude the possibility of believing that the alleged guilt had not taken place? His noble friend had said, that in a case of murder, if a man was found with a knife, his garments bloody, the time concurring, he being proved to have been from home, and unable to give any excuse for his absence, then there was in these circumstances a great presumption of guilt. His noble friend, however, seemed to forget that these circumstances all concurred to prove one act. But if a man had been found with a knife drawn at one time, it was not hence to be inferred, that he had committed murder at another time; nor was it to be inferred, because a man had committed violent acts in one place, that he had committed murder in another. But, farther, when it was said that their lordships were in this case to rely on circumstantial evidence, and when it was shown that one-half of those circumstances were proved by false testimony, and that the agents for the prosecution had been endeavouring to suborn witnesses to swear to other circumstances—were their lordships then under that situation as to the impossibility of withholding conviction on circumstantial evidence, which his noble friend had stated? If he understood what was meant by circumstantial evidence, it consisted of a number of circumstances, proved by undoubted evidence, all bearing on a particular fact, and leading the mind to the conclusion that it was next to impossible that these circumstances should have occurred unless the act in question had taken place; but here their lordships found that, a great proportion of the circumstances were absolutely false; that others had been rejected by the prosecutors themselves; and that many of them were proved by persons who had been convicted of endeavouring to corrupt others; and, therefore, his noble friend's case dropped to the earth, as far as it rested on the application of circumstantial evidence. He might also observe, that there was in this case the absence of one important thing, an absence which could not have occurred if the circumstances stated in evidence were true. Their lordships had evidence before them, that an adulterous intercourse had subsisted without interruption for thirty-five days on board the polacre; and yet, amidst all the circumstances of suspicious character that had been stated at the bar, in reference to what took place in the polacre nothing had been said about stains on the bed-linen during that time.

He came next to the alleged familiarity between her majesty and Bergami; and, in the first place, he was prepared to maintain, that the imputed acts of familiarity had not been proved. The boat-

man, on whose testimony many of these acts of familiarity rested, had been directly contradicted by another boatman, who had a better opportunity of observing what took place. Then, again, that offensive story about the Adam and Eve—it was contradicted by the evidence of two witnesses of unequivocal character. As to facts stated to have taken place, under circumstances in which they could not have been seen by any person but the witness who stated them, they admitted of no positive contradiction; but when he saw agents, such as Restelli and Riganti, employed in corrupting witnesses—when he saw a commission established at Milan, and holding an open shop where any man knew he could get pay in proportion to the importance of the facts he asserted—could he look to that evidence without suspicion, even if he did not attribute to it the character of direct and positive falsehood.

Having so far cleared away these grounds, he had the satisfaction of knowing, that a great proportion of the charges were abandoned by the prosecution. The alleged acts of adulterous intercourse at Scharnitz, at Carlsruhe, at Turin, and at Naples, were all given up; though he could not help observing, that many noble lords, who had found themselves compelled to relinquish these charges, still seemed to lean to them with a pertinacity for which he could not account, unless by supposing that these noble lords were desirous to mislead the judgment of those who heard them. Majoochi, Demont, Sacchi, Cuchi, and the rest of that tribe, these noble lords wished to be thought not so bad as they were known to be; and with what good and fair motive it was wished to make such an impression he was at a loss to conceive. His noble friend having rested on the elevation of Bergami, in the first instance, as a suspicious circumstance, relied altogether on the thirty-five days on board the polacre for the proof of that adulterous intercourse charged in the bill. But, in judging of these presumptions, their lordships would do well to consider that the polacre was very different from a private house, and admitted of but few accommodations; and above all, they should consider that it was necessary for her majesty to sleep on the deck, and sleeping there, that it was necessary she should be attended, and attended to by a man, ready to preserve her from the danger incident to her perilous situation. But, if she wanted an opportunity on board the polacre, to gratify criminal passions, she certainly could more conveniently and more safely have done so in the cabin below. But she removed from a place of comparative safety and secrecy, to the deck, where she was exposed to general observation. And she never, in his opinion, would have done so, if she had entertained criminal motives. But at most, what did the fact amount to?—to nothing but to a certain degree of suspicion; and that suspicion was attempted to be strengthened by unfair observations on the elevation of Bergami.

It had been said, that the bill had been introduced in order to uphold the dignity of the throne, but their lordships would recollect, that her majesty had been at courts of Europe with Bergami in her suite; she had appeared at the courts of Turin, of Naples, of Bavaria. Were the prosecutors ignorant of the imputed conduct of her majesty? Were they ignorant of the testimony of Barbara Kress? Not at all. Why, then, suffer these charges to sleep for three years, until they were nearly forgotten, without having ever complained of the conduct of her majesty? What anxiety did they, during all that time, shew for the honour of the Crown? What respect for the morals of the nation—so much the pretended object of their anxiety? Odious as the conduct of her majesty might have appeared to them, they were willing to connive at it. With respect to the expediency of the measure, he would, in the first place, observe, that it was not thought expedient to bring it forward for the last three years, during which time ministers were in possession of all the evidence against her; it was only thought expedient to proceed against her when she landed in this country—when she asserted her undoubted rights. Then, and not till then, was she attacked. With respect to what had fallen from his noble friend, nothing appeared more unfair, or more unparliamentary, than to press the bill to a second reading without fully deciding on the principle of the measure. Then was the proper time to oppose it. But it was said that the preamble might be modified in the committee according to the shades of guilt which might appear; that observation afforded to their lordships a striking instance of the justice intended to be done towards the Queen. First, an in-

dictment was preferred? she pleads to that indictment, she opens her defence, and on hearing the evidence, they found that it did not apply to the charges in the indictment, and they therefore would turn round to put it in another shape—a shape, too, against which they proposed not to hear any evidence. The bill, thus modified, would be quite a different bill from that originally brought in, and it might so happen that her majesty might have evidence which might be able to meet the one case, but which was not considered necessary to adduce for her justification in the other. If the preamble was not proved to the very letter, to the fullest extent, no man of honour, no honest man could support the bill. He would say, that the single act of adultery, even if it were proved, would not be enough to support the bill; because the bill charged, that an adulterous intercourse had been carried on by her majesty in the different places, to the scandal and disgrace of the country.

Before he went a step further into the question of expediency, he wished to make one observation on the conduct of the prosecutors in this case. It had been well asked by a noble friend below him, why the prosecutors had not examined Dr. Holland; but he would go a step further, and would ask if the Milan commission had been established for an honest purpose, if it was not bound to report all the evidence that made for the Queen as well as all the evidence that made against her? Now, not having had the honour of seeing the contents of the green-bag, he could not say how much exculpatory evidence there might have been in it to set off against the accusations it contained. Their lordships had judged of the evidence; the country also had judged of the evidence and the prosecution, and considered both to be a snare: the public having watched this evidence, were judging not only of it, but of their lordships conduct. Did it follow necessarily that the public were wrong in the opinion they had formed? Were there no presumptions against the prosecution? Was there no presumption in favour of the Queen to be found in her coming over here to meet the charges of her enemies? When, therefore, the public were watching their lordships conduct, would they fail to look at the conduct of her majesty's prosecutors? Would they not see that many individuals in that House, who were to be the Queen's jurors and judges, were also her prosecutors? Would they not believe that her majesty had to contend, amidst the other difficulties in which she was involved, with the wide-spreading influence of the Crown? Did their lordships suppose that the public would overlook these things? Was it nothing for the public to know that some peers, whose names he forbore to mention, would come down to that House to give a verdict of guilty, and to aggravate the evidence against the accused, without having heard one word of the defence? Prosecutors were here seen erecting themselves into judges; and others—he trusted they were not under the influence of these prosecutors—who had not listened either to the evidence or to the counsel for the accused, were also to act as judges. Did their lordships suppose that these things would have no weight with an honest, upright, and enlightened public? He implored them to consider these suggestions, if they were desirous to maintain unimpeached that character of impartiality and integrity which their decisions had hitherto commanded.

He had now but one other subject on which he was desirous to detain their lordships, and that was, the question of the divorce clause. He was decidedly against the second reading of the bill, either with or without that clause; and, indeed, whether it was excluded or retained, he conceived that the disadvantages would be nearly equal. If it were intended to exclude the divorce clause, he saw the most frightful consequences; and of these the most fearful and the most inevitable was, the degradation of the King himself. Every sentiment of human justice—every duty inculcated by our religion—every institution of our laws—every practice of the constitution—the divine ordinances themselves—all tended to inculcate a doctrine, which pronounced for the impossibility of a separation in this case, if her majesty was innocent. He had heard that the divorce clause was proposed to be omitted. But how was this to be effected in justice? If the Queen was really guilty of the crimes imputed to her, why should not the divorce be pronounced for, unless it was meant to be said (which surely never could be argued), that however bad the Queen was, she was good enough for the King? But, let the House look at the case in another light. When noble lords

had endeavoured to point out the extreme injustice, and the unhappy consequences, which must arise from their passing a divorce bill, under possible circumstances of imputation against the other party, they were met by others of their lordships, who said, "Don't all these consequences happen in all divorce cases, almost? and, if you were to prove all this, where will you be able to pass any divorce bill?" Now, in the first place, he apprehended that, with respect to a divorce bill, they must have a party before them. Was it just to the King, that he should not be heard, by counsel, against or in behalf of the dissolution of his own marriage? Was it just to her majesty, that this marriage should be set aside—that such a sentence should pass against her—unheard? Had they heard her case upon this point argued at their bar? No such thing. If, however, this measure really came before their lordships as a divorce bill, the other party must be considered to have presented himself at their bar. In that light, he came there with a previous knowledge of all preceding circumstances; he must be cognizant of his own case; he must come before them with clean hands: he must prove that case; but, above all, his own conduct must be unexceptionable and perfectly pure. He was to be looked upon as coming with that knowledge, and quite prepared to see it stand or fall as the facts of his case were made out for or against him. Was it so, here? He maintained that it was no such thing. If the divorce clause, in this case, was to remain, it would be to the prejudice of any other person against whom a bill of divorce might be hereafter presented. Why was her majesty to be excluded from the benefit of pleading all those facts, which might well be heard against a measure for divorcing her from her marriage, her state, and dignity? Why was she to be precluded from recrimination, in a case which their lordships were told admitted of it? Why was she to be precluded from proving that she was originally separated from her husband against her will; that the act of separation was not hers? Why was she to be precluded from proving collusion and connivance, on the part of those who were her prosecutors, manifested almost from the time she first went abroad, and above all at St. Omer's, when they made her the infamous offer of a large bribe?

The bill under their lordships' consideration was altogether an anomalous bill. At one time it was treated as a divorce bill; at another, as a bill of pains and penalties; at one period, it was stated to be a bill for the relief of his majesty, as against his wife, the Queen consort; at another, her majesty was considered as the wife of the state (if he might be allowed the phrase), and accordingly they were told that it was the state which was to be relieved. Considered, therefore, as a national measure, he must still protest against it, as a bill of divorce in this case. Let them suppose a husband who had withdrawn his protection from his wife—who had separated himself from her—who had given her a licence to travel and reside in foreign parts—who had withdrawn his countenance from her—marking with displeasure any of his friends, or subjects, who might have shown her any common attention or civility—should not he be required, on applying for a divorce, to prove his case; and should not she be permitted to be heard against him, to show that his own conduct had not entitled him to his prayer? There would be, in this case, at least a possibility of recrimination; and, supposing the circumstances pleaded in the course of that recrimination to be made out, he wanted to know whether the state and the nation would be entitled to treat her majesty as a woman justly and properly divorced, degraded, and dishonoured? The noble lord then adverted to the address which had been voted by the House of Commons, praying her majesty to give up the point of the Liturgy; in which, he contended, they, by implication, commended her past conduct, and approached her as the Queen consort. That address had the support of his majesty's ministers, as well as of a large proportion of the lower House. It could not fail to have had its weight with the country,—as coming from whom?—from persons in possession of all the facts of this case. Such a proceeding, or one analogous to it, in the case of husband and wife, would be proof, and good proof. She was, in some sort, as he had observed, the wife of the state; and so considered, the state itself had that ground to urge against the bill, which, in the ecclesiastical court, would be a most effectual, complete, and entire bar against a divorce. Upon every principle, therefore, whether the party were considered as the husband individually, or the state collec-

tively, their lordships, in passing this bill of divorce—for such it was—would be committing a serious irregularity, independent of all other considerations of policy or expediency. Their lordships had here, besides, the knowledge that the prosecutors, some of whom were also judges in this instance, had pledged their interests in the support of the bill. These facts, then, they were in possession of; and now they were called upon to pass the bill for the honour of the country! Why, it was too monstrous a proposition—too palpable a delusion; it would be, indeed, the grossest of insults upon the public understanding, if it were not met by the almost universal detestation, scorn, and hatred of the people. The feeling of the country upon this bill was too well known, to make it necessary that he should direct their lordships' attention to it. But he could not help deprecating the great injustice that would be brought upon the Queen, if they passed a measure which must necessarily involve the suspicion of her guilt, and that upon such evidence as had been laid before their lordships. If the Queen had been called to their bar, on an impeachment by the Commons, and their lordships had condemned her, she would have had the opportunity of hearing every thing which could be alleged against her, and of hearing them established in proof; and she would have had the advantage herself of pleading all such acts and circumstances as he had adverted to; and these, in the last moment, previously to the decision of the House, their lordships would have considered, received, and taken in diminution of punishment. Were their lordships prepared now to hear counsel or herself in mitigation of punishment, at their bar, in the event of her condemnation? Were they prepared to enter into a fresh discussion upon the evidence to be adduced in recrimination, or to listen to the arguments of counsel upon bringing it forward? Still more, if they considered such a course necessary to the ends of justice, were they in a situation to adopt it? The line of proceeding already taken was no inconsiderable aggravation of the ills to which they had already exposed her majesty. She was subject to the infliction of degradation, and of pains and penalties; but the opposite party was not visited by the production of such evidence as might be urged in mitigation. He asked no favour; but he demanded that the same justice should be strictly extended towards the Queen which their lordships never would withhold from the meanest subject.

The noble lord then replied to some remarks which had fallen from other noble lords with respect to the addresses received and answered by her majesty, upon which they had founded a charge against the Queen. When his noble friends, however, expatiated on the danger of this sort of homage paid to her, apparently connected (as they said she was) with a body of persons who were supposed not to be too well affected to the government, did they not, at the same time, consider what must be the necessary consequences of a bill of this nature?—that if the Queen were degraded, the people, already eager and ardent in her favour, would be rendered desperate? He did, indeed, trust, that her majesty, and those who were said to be thus connected with her, would have the virtue to avoid such courses; but, he would ask, was it not to give an opportunity to persons really disposed to undermine the constitution in church and state, to degrade, by their sentence, the Queen Consort; and, where so general and eager a sentiment of affection for her pervaded throughout the country, was not such a measure calculated to give a wrong bias to public feeling, and a dangerous incentive to popular disaffection?

The House then divided:

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Hopetoun	Stuart (Moray)
Gambier	Douglas (Morton)
Manners	Grenville
Ailsa (Cassilis)	Suffield
Lauderdale	Montagu
Sheffield	Gordon (Huntly)
Rédesdale	
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Somers
Rodney
Middleton
Napier
Colville
Gray
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Ross
Donoughmore
Belmore
Mayo
Longford
Mount Cashel
Kingston
St. Germains
Brownlow
Whitworth
Verulam
Cathcart
Mulgrave
Lonsdale
Orford
Manvers
Nelson
Powis
Liverpool
Digby
Mount Edgcumbe
Strange (Athol)
Abergavenny
Aylesbury
Bathurst
Chatham
Harcourt
Warwick
Portsmouth
Graham (Montrose)
Pomfret
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Rochford
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Cardigan
Balcarras
Winchilsea
Stamford
Bridgewater
Home
Huntingdon
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Thomond
Headfort
Anglesea
Northampton
Camden
Exeter
Cornwallis
Buckingham
Lothian
Queensberry
Winchester
Dukes Wellington
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Newcastle
Rutland
Beaufort
Lord Privy Seal
Lord President
Archbishop of Tuam
Lord Chancellor
Archbishop of Canterbury
Duke of Clarence
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Amherst
Kenyon
Sherborne
Berwick
Ashburton
Bagot
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Dacie
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Grantham
King
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Howard of Effingham
Saye and Sele
Dacre
Zouche
Clinton
Audley
De Clifford
Belhaven.
Viscounts Granville
Anson
Duncan
Hood
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Bolingbroke.
Earls Blesington
Caledon
Enniskillen
Farnham
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Carrick
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Grey
Romney
Rosslyn
Carnarvon
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Fortescue
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Ilchester
Darlington
Egremont
Fitzwilliam
Stanhope
Cowper
Dartmouth
Oxford
Rosebery
Jersey
Albemarle
Plymouth
Essex
Thanet
Denbigh
Suffolk
Pembroke
Derby
Marquisses Bath
Stafford
Lansdown
Dukes Portland
Brandon (Hamilton)
Devonshire
Bedford
Grafton
Richmond
Somerset.
Archbishop of York
Duke of Gloucester.

Protests against the Second Reading of the Bill.] The following Protests were entered on the Journals:

DISSENTIENT, No. I.

Because the second reading of the bill is equivalent to a decision that adulterous intercourse (the only foundation on which the bill can rest) has been satisfactorily proved.

Because that adulterous intercourse has been inferred, but not proved; and in a doubtful case, in which the imputed guilt is not proved, although innocence be not established, the benefit of that doubt, conformably to the principles of British justice, must be given to the defendant.

Essex, first reason only
Hillsborough, first reason only
Kenyon
Orford
Somerset
Selsey
Rosebery
Morley, first reason only
Leinster
Mansfield
Enniskillen
Richmond and Lenox
Jersey, first reason only
Carrick
Grafton, first reason only
Anson, ditto
Darlington, ditto
Belhaven, ditto

DISSENTIENT, No. II.

Because this proceeding, from its nature, cannot be assimilated to a common indictment, in which a conviction upon one count alone, out of many, is sufficient.

And because, although enough has been proved in evidence to satisfy us of the existence of guilt, yet as evidence on many of the allegations has been contradicted, in some disproved, and in others is so suspicious as to be laid wholly out of the case, we are of opinion that it is inexpedient to proceed further in this measure.

Plymouth	Clinton, second reason only
Dynevor	Gage, second reason
Grantham	Ilchester.
Denbigh	

The following Peers have also protested against the Bill upon general grounds:—

DISSENTIENT, No. III.

William Frederick	Fortescue
Lansdown	Darlington
Jersey	Belhaven
Grey	Calthorpe
Plymouth	Ellenborough
Fitzgibbon	Grafton
Albemarle	Breadalbane
Hamilton and Brandon	Auckland
Duncan	Dawnay (Downe)
Hillsborough	Mendip (Clifden)
Wentworth (Fitzwilliam)	Leinster
Derby	Hawke
Anson	Gosford
Yarborough	Romney
Sherborne	Rosebery
Cowper	Scott (Portland)
Audley	Thanet
Kenyon	Hood
Carrick	Ashburton
Selsey	Howard of Effingham
Foley	Alvanley
Arden	Carnarvon
Egremont	Dundas
Torrington	Caledon
Suffolk and Berks	Sunridge
Loftus (Ely)	Ducie
Morley	King
Granville	Rosslyn
Richmond and Lenox	Dacre
Bedford	Grantham

HOUSE OF LORDS.

Tuesday, November 7.

The House having been called over,

Lord *Dacre* rose for the purpose of presenting a protest on the part of her majesty, which had just been put into his hands by her attorney-general. He ought, perhaps, to apologize for not having stated his sentiments as to the proceedings before the House; but his opinion was one which could not be affected by any thing stated on either side at the bar. His objection was, to the principle of the measure, to a bill of Pains and Penalties being introduced for alleged immoral conduct committed long since. It was therefore unnecessary for him to enter into any discussion of the evidence.—The noble lord then presented the protest, which was as follows:

"CAROLINE REGINA.

"To the Lords Spiritual and Temporal in Parliament assembled;

"The Queen has learnt the decision of the Lords upon the bill now before them. In the face of parliament, of her family, and of her country, she does solemnly protest against it. Those who avowed themselves her prosecutors have presumed to sit in judgment upon the question between the Queen and themselves. Peers have given their voices against her who had heard the whole evidence for the charge, and absented themselves during her defence. Others have come to the discussion from the Secret Committee with minds biassed by a mass of slanders, which her enemies have not dared to bring forward in the light.

"The Queen does not avail herself of her right to appear before the committee; for to her the details of the measure must be a matter of indifference; and, unless the course of these unexampled proceedings should bring the bill before the other branch of the legislature, she will make no reference whatever to the treatment experienced by her during the last 25 years.

"She now most deliberately, and before God, asserts that she is wholly innocent of the crime laid to her charge; and she awaits with unabated confidence, the final result of this unparalleled investigation."

The *Lord Chancellor* said, that according to the rules and regulations of their proceedings in all matters of accusation before them by bill, the person who was placed in the situation of the accused, after the second reading of the bill, had a right to be personally heard. That was a doctrine which prevailed in Atterbury's case, and several others. He thought it right, if it was to be considered as the address of the individual sending it to the House, that it should be taken notice of and received as such; but strictly speak-

ing, it could not be received as a "Protest."

The Earl of *Liverpool* had no objection to the paper being received as the address of the Queen, provided a formal entry were made in the Journals to that effect. It might be entered on the Journals, not as a protest, but as a representation of what the feelings of the Queen were, and an address which she would have made had she been personally present.

The *Lord Chancellor* agreed, that it was proper to receive it in some way or other, and thought it might be received under the name of an address, but certainly not of a protest, which might form a precedent for individuals protesting against the proceedings of that House.

The Earl of *Lauderdale* agreed, that this protest should be put, in some way or other, on the Journals. It should stand there as the address of the Queen. But, considering it as an address, he begged to ask, whether their lordships thought it one which, if delivered at the bar, would have been received by the House without interruption? It was said in that paper, that noble lords came from the secret committee "with minds biassed by a mass of slanders." How could her majesty know that all the evidence which had been brought before the secret committee had not been laid before the House? This was one of the most direct calumnies ever vented against the House. He, for one, had sat upon the committee, and he declared, before God, that his opinion of the Queen's guilt had arisen from her own defence. Was it possible that their lordships would permit themselves to be thus slandered?

The Duke of *Newcastle*, conceiving that he had been attacked by this protest, which, by a sort of *ex post facto* law, would deprive him of his right of voting, begged to say, that he had considered from the first, that if any peer were prevented from attending on any occasion, he was not to be therefore deprived of giving his vote, as he had a full opportunity of reading the evidence, either within or without the House. No slander should compel him to surrender his right as a peer of giving his vote conscientiously, as he had done on the present occasion.

Lord *Somers*, who had also been absent for a day or two during the defence, maintained his right of voting, and endeavoured to vindicate his conduct against the reflection cast upon noble lords in his situation by the terms of the protest before the House. He had been absent, he said, in consequence of indisposition, but he had read the evidence taken during his absence, and he would say, that no noble lord could be more attentive to the evidence than himself while he was present. Having said thus much, he would now observe, that he had never attended any judicial proceeding in which he was more perfectly convinced of the guilt of the party, than in the present case. He was convinced that the illustrious person was guilty of the essential parts of the charges brought against her. He lamented that such was the conclusion he had been forced to come to; but he was called upon to do his duty, and he had done it upon the most decided feeling and conviction.

The Duke of *Athol*, justified his voting on the bill, notwithstanding a temporary absence from the House during the investigation, by saying that he read all the evidence with the utmost attention.

Lord *Sheffield* said, that he should not have thought it worth his while to notice the allusions in which he was included, if he had not been desirous of appearing to noble lords, for whom he had great respect, to have had sufficient reason for occasional absence. He had been extremely ill since the adjournment of the House, and he came up on the 3rd of October, at the hazard of his life, to attend his duty in that House; but when he did not attend, it was at the urgent solicitation of his medical advisers. He was credibly informed, however, that he had lost nothing by not attending the debates, but that he was saved some mortification by not being a witness to certain concessions and submissions—that he always understood their lordships should be guided by the written evidence, and no other—that it should be recollected the written evidence alone guided the decisions of the Court of Chancery, and also Doctors' Commons; and he presumed to say, he was as well acquainted with the evidence as any of their lordships; but he particularly protested against the suggestion, that it was unfair to her majesty's cause to decide on the written evidence, and insisted that it was infinitely more favourable to the Queen, because that evidence did not record many prevarications, evasions, change of countenance, faintings, and other symptoms that might have made a very unfavourable impression.

The Earl of *Carnarvon* said, it had never occurred to him, that those who did not hear the whole of the evidence for and against the bill, could be competent to give a vote in a case of this description. This was certainly a matter in the discretion of their lordships, and he was far from saying, that it was wrong that it should thus be left to their discretion. With respect to the protest before them, he could have wished certain unguarded expressions to have been omitted; at the same time, considering the painful situation in which her majesty was placed, he thought the greatest latitude of indulgence ought to be allowed. Wishing to do justice, according to the principles of British jurisprudence, had he been on the secret committee, he thought he could hardly have trusted himself to come there as an impartial judge. After what had taken place, had he been counsel for the Queen, he thought he should have advised no further appeal to their lordships in any future stage of these proceedings. Of all the calamities which had grown out of this great national calamity, he considered the declarations made in that House, that day, were not the least. Those declarations, which went to assert a right to condemn the Queen without hearing the whole of the evidence, appeared to him calculated to induce their lordships to trample on the vital principles of justice. He had thought it a vital principle of justice that no accused person should be condemned but on oral testimony. Those who felt exempted from the observance of this principle, seemed to him to act in violation of the most sacred principles of British justice. He then commented on the conduct of certain noble lords in this respect, and contended, that when proxies were excluded from voting, it was intended to preclude those from giving a vote on this bill, who had not heard the whole of the evidence, as the vote of the proxy would be good, but it was objected that the party had not had the advantage of witnessing the proceedings. Again, in reference to the protest, he would contend that they could not relax the strict rule too much with respect to any representation which this unfortunate lady might be disposed to make.

The *Lord Chancellor* said, he had heard of no disinclination—he felt no disinclination himself—to receive, in some form or other, the matters contained in the paper of her majesty. As, however, it contained matter reflecting on the conduct of noble lords in that House, and yet ought to be received, the proper course would be to adopt some mode of expressing their opinion, with regard to the circumstances under which it was received. He had nothing to say respecting his own absence, having never been absent; but a great deal must necessarily be left to the discretion of noble lords themselves, as to whether they would vote or not. In cases of impeachment, proxies could not be admitted; but he knew of many cases of impeachment, in which noble lords had voted without hearing the whole of the evidence. With respect to the observations upon the votes of such noble lords as had sat on the secret committee, although he was one of those who sat upon that committee, he could not, looking back to what had been done in all former cases, refuse to act in the discharge of his duty and the exercise of his right as a peer, to vote upon the bill.—His lordship then moved a resolution, declaring, "That the House, notwithstanding the exception which it might take to some points of the matter contained in the paper, did, nevertheless, under all the circumstances, consent to receive the same as a representation of what her majesty wished to state further in her defence in the present stage of the bill."

The Earl of *Lauderdale* suggested, that the word "justly" should be inserted in the resolution, immediately after the word "might."

Earl *Grey* said, that the House had already done mischief for which there was no remedy; and, though their lordships might still compel his attendance, he would not utter a single word during the remainder of the proceedings. The suggestion of his noble friend appeared to him to be unnecessary. The only exception which the House had a right to take, referred to that part of the protest in which allusion had been made to the conduct of noble lords in that House. But if it was meant to be insinuated, that the other exceptions made by her majesty were not just, from that conclusion he must dissent, thinking, as he did, that they were most just. It was true that some noble lords had reconciled it to their consciences to pronounce a verdict of guilty, without hearing the whole of the evidence. Of that he did not com-

plain; if they thought it reconcilable with their own honour to do so, it was not for him to find fault; they must answer it to God, and their own consciences. He could not, however, but remark upon it as a little extraordinary, that, when it was declared improper for a peer to vote by proxy in that proceeding, noble lords should come forward as their own proxies as it were, and vote without having heard the defence.

Lord *Redesdale* said, he could conceive nothing more mischievous than suffering it to be understood, that, because a peer had been a member of a secret committee, he should therefore be disqualified from his vote. With respect to the statement in the paper which referred to the members of the secret committee, it was an imputation not only absolutely false, but scandalous.

The resolution, as amended, was then agreed to. On the motion, that the House should resolve itself into a committee on the bill,

The Earl of *Darnley* said, he never could believe that, ultimately, the House would pass a measure which was unnecessary, which was defective with reference to the mode of proceeding, and which was not established by that incontrovertible evidence, on which alone it ought to stand. He could not avoid congratulating their lordships on the division that took place yesterday. Let their lordships look at that division, and ask themselves whether it was possible that a large proportion of those noble lords who voted for the bill could have come to the consideration of this subject with perfectly unbiassed minds? It could not be forgotten that a large proportion of that majority was composed of the accusers themselves—a large proportion of it was constituted of individuals who had recently received favours from the Crown.

The House having gone into the committee,

The Earl of *Liverpool* said, that in the usual proceedings of the House, the course adopted in committees was, in the first instance, to postpone the preamble. In the present case, however, the proceeding should be on the truth or falsehood of the preamble. That was the question now. The early part of the preamble he considered to be completely proved. With respect to that part of the clause in which her majesty was stated to have obtained for Bergami titles of honour, he meant to move that those words be struck out, not that any of their lordships could have the least doubt as to the fact, but because no direct testimony had been produced upon that part of the case. He next proposed to substitute the words "various places and countries," instead of the various places and countries which her royal highness visited. The words, as they now stood, implied that the charges had been proved in all the places and countries which she had visited, which he was perfectly ready to admit had not been the case.

Lord *Ellenborough* objected to the words "and in other respects."

The Earl of *Liverpool* said, that the allegation was most material, and he begged to call the attention of the House to that part of the evidence by which it was borne out [Here the noble earl referred to various parts of the evidence which supported the allegation.]

Lord *Ellenborough* said, he understood the words "and in other respects" to mean offensive and indecent familiarities towards other persons besides Bergami. The instances stated by the noble earl were all instances in which Bergami was present.

The Earl of *Liverpool* said, his idea was, that the words did not imply familiarities towards other individuals, but that they expressed offensive and indecent familiarities where Bergami was not alone with her. He had, however, no objection to leave out the words.

After a short conversation, it was agreed, that the said words should be left out.

Lord *Ellenborough* said, that although the evidence at the bar proved her majesty guilty of adultery, yet, thinking that the bill ought not to pass, he submitted, that the person who was to remain Queen of this country ought not to be declared by their lordships guilty of "adulterous intercourse." To retain such an allegagation would be to degrade the king and the queen.

The Earl of *Harrowby* asked, if the fact was proved, how it was possible not to state it in the preamble? This was the feeling of every man who voted for the second reading; and many who had voted against the second reading had stated that they believed the adultery.

Lord *Calthorpe* objected to the clause on the broad ground of expediency.

The Earl of *Liverpool* said, that the

question was now, whether the allegations in the preamble had been made good? Those noble lords who thought the case of adultery made good, ought to vote for those words.

Lord *Erskine* said, that the words ought to be left out; first, because they were not proved by the evidence, and, also because the paper laid by her majesty on the table confirmed the opinion of her innocence. In the course of his professional life he had heard protestations of innocence from the mouths of persons whom he believed to be guilty; but, feeling an opinion that she was innocent from the evidence, that declaration by her majesty confirmed his opinion on the evidence. As the case was not proved by the evidence, the protestation of the accused must confirm the belief of her innocence. But his reason for opposing the words was, that they were most degrading to the king. How was it possible to degrade the Queen, and not to divorce her? Was it not the first object, in every case of adultery, to be relieved from the party whose infidelity should be proved? He was of opinion that no adultery had been proved, and he thought the first moment of striking out the charge ought to be taken.

Lord *Gage* said, that, it being not a case of adultery, the word "suspicious" was the proper term.

The original words were agreed to.

The Divorce Clause having been read,

The Archbishop of *York* rose to oppose it. On the principle of impartial justice, he thought it could not be allowed to remain in the bill. In the Bible he found no mention of such a thing as religious expediency to justify such a proceeding. Marriage was not merely a civil contract, but a solemn ordinance of religion, and upon this question, he could look only to the word of God as the guide of his conduct. He could not, therefore, consent to have this clause retained. If, however, this clause was expunged, and the other enactments of the bill agreed to, their lordships would exhibit to the world the monstrous spectacle of a degraded Queen still continuing the spouse of the sovereign. From this dilemma he saw no way of escape but by rejecting the bill altogether. In voting against the second reading yesterday, he had this very difficulty in contemplation. On the evidence itself he had no hesitation in making up his mind; and, though as a legislator, he would say Not Content to the bill; if called upon as a Judge, to deliver his sentiments, he must say, Guilty. In his view of the case it would be much better had the bill been never introduced. It was lamentable to reflect how deeply the interests of religion and morality must have been injured by the introduction into every family, of such odious and disgusting details. The interests of morality and religion must be still more vitally injured by persevering in a measure which was derogatory to the honour of the Crown, and injurious to the best interests of the empire; which gave the utmost pain to every good man, and tended most effectually to forward the views of a party whose object was to vilify the constituted authorities, and to bring into disgrace all that was most sacred and venerable in the laws and constitution of the country.

The Bishop of *Chester* said, that having no doubt that the crime of adultery had been proved against her majesty, he voted yesterday for the second reading of the bill. This vote, however, he gave on an understanding that the divorce clause was to be laid aside.

The Archbishop of *Canterbury* said, that if the question was, whether divorces *a vinculo matrimonii*, were consistent with the word of God, he felt bound to answer, that they were expressly declared to be lawful by our Saviour himself. They were certainly not authorized by the Canons and Institutions of the Established Church, nor by the common law of the land. And why? Because marriage lay at the very foundation of civil society, and, therefore, it had been the anxious wish of all countries to protect it from dissolution. Yet instances of divorce had occurred in this country, not only subsequently to the Reformation, but antecedently to that period; and in the Mosaic law there was also mention made of divorce. Our Saviour had said, that "he who putteth away his wife for any other cause than adultery, causeth her to commit adultery." Did not this obviously infer that divorces were allowable? He considered the charge of adultery established against her majesty, and, under that conviction, he had no objection of any description, least of all of a religious nature, to the bill proceeding in its present form.

The Bishop of *Worcester* opposed the divorce clause. He could not vote for it, unless the Queen were allowed the same

advantages and the same means of defence as other persons were entitled to.

The Bishop of *Landaff* thought that to retain the clause would, on the whole, be most advisable. According to the law of the country, he knew no other cause of divorce than adultery, and no other punishment for adultery than divorce; and, as to the Christian law, it certainly provided that dissolution of marriage might take place in any case of adultery.

The Bishop of *London* said, that in the present case a great constitutional question was involved, and in a constitutional point of view it must be regarded. It was a maxim of the constitution of this country, that the king could do no wrong. It was said by an able writer, that the king could not be guilty of a folly, much less a crime. This principle, if carried to the full length, would seem to remove all ground for recrimination, all inquiry into the conduct of his majesty in his conjugal relations. He did not, however, mean to argue it on such a principle. He saw no reason why the clause of divorce should not remain. There were many instances of bills of divorce having passed that House, though the conduct of the husband was notoriously reprehensible. The essential point was, the proof of adultery, which he considered to be established, and therefore, in a moral, constitutional, and religious point of view, he felt it his duty to support the clause.

The Earl of *Lauderdale* said, that in wishing to exclude the divorce clause, he contended for no other proposition than this,—that the parties had not come before them in a situation that admitted of its application. Her majesty had acquired, by her marriage contract, rights both public and private. She had been found disqualified for exercising her public rights, and, therefore, she was by this bill to be deprived of them. But, was this any ground for the House going farther? Was there to be one law for the King, and another for the subject? No. He agreed with the learned doctor (Lushington), who had spoken admirably and eloquently for the defence, that the law of marriage was the same with regard to the highest as to the lowest subject in the realm. If he was rightly informed, adultery in the ecclesiastical court was considered as a *peccatum*, and not as a crime, and was therefore punished on a different principle. In his opinion, therefore, there ought to be no difference in the case of the sovereign and that of a private individual. He had originally some doubts upon the subject. One ground for a divorce appeared to him to be, that if the situation of the Queen were destroyed as a *femme sole*, her situation ought to be destroyed as a *femme couverte*. From this difficulty, however, his mind had been relieved on further examination. The rev. prelate who spoke last, seemed to think that, in ordinary cases, if the fact of adultery were proved, they proceeded to grant a divorce without further ceremony. But that House took especial care in all cases of divorce, that the husband should be liable to examination with respect to his conduct, in order that it might be ascertained whether or not that conduct had been such as to effect his claim. He thought the bill, with the divorce clause in it, highly absurd and inconsistent. It would certainly be injurious to the public morals to allow a person guilty of such conduct as had been proved against her majesty, to remain as Queen, to be looked up to as at the head of society in the country. But, was he, by passing the divorce clause, to declare, that the king might conduct himself as he pleased, without having the same check on his conduct as a subject? This would, in his opinion, be as injurious to the public morals as to abstain from degrading her majesty. For himself, he was perfectly astonished to hear any right rev. prelate maintain, that the ground for such a clause might be laid in the holy writings: that was directly in the face of all he had ever read or learned with respect to them.

The Earl of *Darnley* also expressed his astonishment that the right rev. metropolitan, should lay the ground for the divorce clause in the Scriptures. He had never seen any thing of the kind in the Holy Scriptures: he recollected a text which said, "he that putteth away his wife, saving for fornication, causeth her to commit adultery." Now, in this case, had not the husband put away his wife? If he had, and it was not for fornication, had he or had he not caused her to commit adultery? It appeared to him that they could not pass the bill with the divorce clause, nor without it. Not with, for the reasons he had already stated; not without, for how could the Queen be degraded without being divorced? Could the wife of the King be other than Queen? Could any of their lordships wives lose

their titles without being divorced from their husbands? Queen she must be, unless divorced. Sooner or later, he trusted, they should get rid of this detestable measure. It could in no case do good, and the only question was, what was the quantum of evil which their lordships would allow it to do?

The Earl of *Donoughmore* said, that the case was not to be considered as one in which common parties were concerned. The King was not a suitor to the House; he only appeared as the head of the state, and not in his personal character. The case could not, therefore, be decided by the rules applicable to private individuals. Their lordships had already determined that the conduct of the Queen had been such as to render her unfit to remain a sovereign. They owed it to the country, to the King, to themselves—they especially owed it to the women of the country, to pass this clause. There were few of their lordships who had not declared their opinion, that the act of adultery had been proved. Many of those who had voted against the bill, thought it right to state their conviction of the guilt of the illustrious person in question. The evidence had proved her to be unfit to sit as Queen Consort of these realms. They had understood on high authority, that his majesty himself had no feeling on the subject. It was not for any purpose of a personal nature that this bill ought to be passed. God forbid that the House should pass it on such a ground. But in what a light would their lordships appear, if, after agreeing to the early part of the preamble, they should omit the two concluding lines, lest it should be supposed they were courting the royal favour! He was fully convinced, that the clause ought to be retained in the bill.

The Earl of *Harrowby* said, that the measure was founded on state policy; but the introduction of the divorce clause appeared to him to give it the air of a measure of personal relief. Since that time he found that a great impression to that effect had been made in other quarters. Considerable difference of opinion prevailed among the right rev. prelates, who had devoted themselves to the consideration of the subject, and he understood that the disinclination to agree to this clause was not confined to those who had stated to the House their individual sentiments. It would by no means be necessary, if the divorce clause were omitted, that the relation between their majesties should be left in its present state. A clause providing for a more limited species of separation might be substituted In considering this subject, their lordships ought to advert to the letter sent by the King to the Queen twenty years ago, and which amounted to a complete separation. Under that circumstance, and without the slightest reference to what had passed in the interval, he considered that his majesty was not entitled to the relief which the divorce clause would give. He did not believe that such a clause could be justified by the law of God:—by the law and practice of that House he was perfectly satisfied that it would not be justified. He objected to their lordships doing in the present, what they would not do in any similar case. He objected to any proceeding which might make it be supposed that they were actuated, not so much by motives of state policy as by a wish to grant personal relief.

Earl *Fitzwilliam* said, that he had the strongest objections to the clause under consideration, and thought it was impossible that the House could proceed to separate a man and wife from the marriage state, neither of whom sought for such separation.

The Earl of *Liverpool* said, that the House would do him the justice to recollect, that on the 19th of August, he had particularly urged this proceeding, on the grounds of public justice, and had then stated, that he knew much misrepresentation had elsewhere prevailed on the subject of the remedy required by one of the parties. It was said to be sought for as a measure of personal relief for the prince on the throne. On that ground, he did distinctly disclaim the measure, and had said, that so far from that being the ground on which he proposed the bill, he was ready, if any religious feeling prevailed upon the divorce part of the measure, to relinquish that part of the relief altogether. He had always said, that though a divorce might be the effect of the bill in one respect, yet that it was not its principle; that the bill was in fact a public measure, and not one of private relief. And he had even gone further, and said, that there might be cases of a young king and a young wife, in which was involved the integrity of the succession, when the House would not be warranted to pronounce a divorce, if the parties had previously been in a state of

separation, unless the public necessity were striking and imperious. It was said, that in this case the House could not degrade the Queen without following the degradation up by a clause of divorce; and that if the latter were not adopted, the measure would be a bill of degradation against the King. Their lordships would however see, that there were many causes which would justify the degradation of a Queen, in which a divorce would be totally out of the question. Suppose, for instance, a Queen were to commit felony —would any man say, that that was not sufficient ground of degradation? But could it be argued, that it was a sufficient ground for a divorce? He had not the presumption to discuss a religious question; but he fully agreed in one opinion with those who thought that for adultery alone was divorce inflicted by the divine law. Recrimination had been well said to be no part of the law of God, but had been wisely decreed by the laws of man, for the purpose of controlling and punishing human passion. How recrimination was attainable in this case he was not prepared to say. With respect to the high station of the parties, it had the disadvantage of exposing one of them to the effect of widely circulated calumnies, which he could not, consistently with the dignity of his station, publicly refute. And with respect to these calumnies he must say, without meaning to bear hard upon the Queen, that it was highly improper for those who could not know the whole of what might have occurred between the parties, to pronounce in a harsh and calumnious manner upon one side of the question between them. On the subject of the present clause, he must repeat, that as no inconsiderable religious part of the community objected to the divorce in this case, he was not disposed to press it. It was a fact that the illustrious parties had lived in a state of separation for 24 years; and that that state had been sanctioned by the late king, and afterwards confirmed by act of parliament. He had not certainly the same doubts which others had upon the propriety of enacting the divorce clause, after what had occurred; but he thought that where there was a strong religious feeling in the country upon the particular clause, it should not be pressed, and particularly where no great state necessity called for its adoption. He was at the same time aware, that if the House agreed to strike out the divorce clause, it would still be necessary to introduce a clause confirming and arranging the separation, so that the King should suffer no future inconvenience from the contract which subsisted.

The *Lord Chancellor* said, he could never bring himself to agree with Blackstone, that marriage was merely a civil contract. In truth, it could not be a civil contract, for it was the parent not the child of civil society—"principium urbis et fundamentum reipublicæ." It had been said, "those whom God hath joined, let no man put asunder." But this doctrine was fully explained in many parts of the New Testament. During the period of the Reformation, when men's minds were much afloat on the subject of religion, he took the Marriage law to be settled thus—that marriage was a civil contract. But unless the ecclesiastical law formed no part of the law of the land, it was a religious contract also. It was a civil contract as far as civil rights were concerned, and it was equally a religious right in religious matters. The ecclesiastical courts can know nothing of a divorce *è vinculo matrimonii*; but parliament had been in the habit of granting relief, in particular cases, by dissolving the bond. It was not until 1795 that it was required that the proceedings in the ecclesiastical court should be produced, with the petition of the party claiming a divorce bill. These were required to show that the party seeking relief was entitled to it. On the subject of recrimination, he had been unable to find any passage in scripture which stated that a woman who was an adulteress should be deemed otherwise because her husband had committed the same crime. The House required always, that the party suing should come with clean hands; and if a husband neglected his own obligations to his wife, it had decided that he should not be permitted to complain that his wife had forgotten hers. This was not all: the House would not allow a woman to obtain a divorce but under very special circumstances. Almost the only case on record was that of Mrs. Addison, where the House granted the bill, because the husband had committed incestuous adultery with the sister of his wife. A noble earl had objected, that the House could not interpose by way of divorce without some instigation on the part of his majesty, and another noble earl had alluded to supposed difficulties

to arise from tendering the bill for the royal assent; but, in any form of proceeding, the assent of the Crown could not be dispensed with. The learned lord next adverted to the expediency of the measure. He conceived that, from the decision of yesterday, the preamble was substantially proved; as no man who was not fully convinced of her majesty's guilt could have supported the second reading of the bill; indeed, many noble lords had opposed the bill solely on the ground of expediency, being at the same time convinced of her majesty's guilt. But for himself, he could not see how their lordships could stop, after having gone so far in pronouncing her majesty guilty, in that stage of the bill. To degrade her majesty without divorcing her, would be to draw the bonds of connexion between her and the King closer. One of her majesty's rights or exemptions was, that she was considered a *femme sole;* that she could hold property in her own name; that she could sue and be sued as a single woman. But if she was degraded from her rank, her rights, privileges and exemptions, then she would become, as wives in ordinary cases, solely dependent on her husband. If the House did not think that this clause should stand part of the bill, would it not be proper to make the separation effectual, which at present depended on a civil contract, supported, as that separation had been, by the consent and approbation of his late majesty. He would declare, in conclusion, that no man had ever been guilty of more cruelty and injustice than he had been in acting upon the evidence in divorce causes, if the testimony now upon the table was not sufficient to support the clause under consideration. His own opinion he would reserve to a future period, but he should feel dissatisfied if he heard nothing more than the contents and not-contents of those who supported or opposed the clause. He trusted, therefore, that the discussion would not close that night.

Lord *Duncan* took the opportunity of asserting, that the whole proceeding against the Queen obviously arose out of a base and foul conspiracy, supported by perjured witnesses. For one, he could fearlessly lay his hand upon his heart, and give a verdict of "not guilty."

The further debate upon the clause was adjourned till to-morrow.

HOUSE OF LORDS.

Wednesday, November 8.

The House having resolved itself into a committee on the Bill, the debate on the Divorce clause was resumed.

The Archbishop of *Tuam* said:—My Lords; It is with pain that I offer myself to the notice of your lordships, which I should not have done, had it not been for the very direct manner in which the body, of which I form a part, were called upon yesterday. My lords, I will refer you to the 32nd verse of the 5th chapter of St. Matthew. My mind has long been made up to vote against the Divorce clause from that very verse; but, if I can show that this illustrious lady has been put away by her husband; if I also show from the Holy Scriptures a solemn denunciation against such putting away, then shall I show sufficient ground to induce me to vote against the Divorce clause, which would release the King from the marriage contract, and leave him at liberty to marry again. That such a putting away of the wife did take place is abundantly evident from the letter of the husband. The denunciation to which I have alluded is in the 2nd chapter of Malachi, when, for literally putting away a wife, the face of the Lord was turned away from the people, and he regarded not their offerings. The temples resounded with the lamentations of the women; and the Prophet established his charge against them as a crying sin, by reminding them of the first institution of marriage. The God of Israel hath said, "he hateth all putting away." My lords, I stand here a most unwilling judge in this cause, and I will candidly confess that nothing but the heavy penalties attached to absence, would have compelled me to attend this distressing investigation. I have been brought here, from the most important duties, which no one but myself could be called upon to perform, and which have been suspended three months in consequence of my absence. I have paid every attention to the whole of the evidence on both sides—to the able arguments of counsel and to the eloquent speeches of noble lords. I have attended every day, every hour, and, I may almost say, every minute; and I have voted for the second reading of this bill, because no other measure was before the House, in which I could declare that a clear, satisfactory, and irresistible case had been made out of the guilt of the

Queen. But as to this Divorce clause, I can never reconcile myself to give it my sanction.

The Bishop of *Peterborough* said, that it had ever been his desire, that, if possible, the clause should be omitted, not that he had felt any doubt as to its legality, for he was sure that in cases of adultery, divorce was sanctioned as well by the laws of God as by those of man; and he was compelled to acknowledge, that in this case the adultery had been clearly proved. But there were in his mind objections to the manner in which it had been introduced. He thought a Divorce clause ought not to be made a part of a bill of Pains and Penalties. He could not see how the Queen could be placed in a state of degradation, and yet at the same time remain the wife of the King. The wife of the King was, to all intents and purposes, Queen-Consort. He, therefore, desired to know, remaining in this situation, by what possible enactment she could be deprived of the title of Queen. The Divorce clause made the bill intelligible, its object being to degrade; but without that, or some clause in its place, it would not be distinctly expressed in what the degradation of her majesty was to consist. Instead of agreeing to the Divorce clause, could not a clause be introduced less powerful in its operation, yet, at the same time sufficient to give effect to the sentence of degradation, though free from the objections which applied to the Divorce clause? The objections to the Divorce clause were chiefly of a religious nature; but as matrimony, though unquestionably a religious institution, was also a civil contract, and gave civil rights, he would ask if those civil rights could not be annulled, leaving the religious part of the contract untouched by this bill? Any clause that might be offered to effect this, should have his support.

Lord *Redesdale* said, he admitted that marriage was a civil contract and also a religious contract; but it was also in the nature of a religious vow, and from that vow no human power could relieve the parties. The only question was, whether by the adultery of the wife that vow was not discharged as to the husband? But as marriage was a civil contract, it affected other parties besides those who contracted; for instance, the children born of the wife: a divorce was to regulate the civil rights, and so far only did any divorce clause in any bill properly extend. He therefore thought the objections to this clause arose chiefly from a misconception of the nature of a Divorce bill. If marriage were merely a common contract, the two parties might discharge it of themselves; but the contract of marriage was one in which other parties were affected, and even the whole state. He wished to know how they could substitute any thing instead of the present clause, which would not in effect be a Divorce clause? He thought it manifestly improper that a person in the degraded state in which it was proposed to place her majesty should remain wife of the King. The Queen-Consort was a public character, and it was due to the public that a person so degraded should not continue in that situation.

The *Lord Chancellor* said, that with respect to the declaration which had been made upon this clause at the beginning of the discussions upon this subject by his noble friend near him (the earl of Liverpool), he begged to be understood as a party to it now, though he had not so expressed himself at the time. His noble friend on the former occasion had said, that this clause should not be pressed, if it was found objectionable to the religious part of the community. If such were the general impression, he also thought it advisable that the clause should not be pressed, though he himself thought it would be more wise to retain the clause. Having thus stated the impression of his own judgment, he was most ready to pay that deference to the religious opinions of others, which, as a public man, he felt he was bound to do. He could not, however, say, that he concurred in the opinion of marriage being more a religious vow than a religious contract. He thought that the civil contract arose out of its being a religious one. But he thought it was quite obvious that, if the Divorce clause were omitted, the bill could not be suffered to stand with the first enactment, and without some explanatory one respecting the object of the bill. It was due to both parties that the first enactment should not stand unaccompanied by another to make the bill fully intelligible. If a majority of the House should be of opinion that this clause should stand, then there would be an end of the necessity of any further proposition upon the subject. If, however, they dismissed the Divorce

clause, then they were bound to supply its place with another clause, so as to enable lawyers and judges to understand the intention of the legislature in framing the enactment. The House must in terms explain the object they had in view. Those who were induced to vote for the bill, upon the painful proof of the fact that adultery had been committed, were bound to accompany the clause of a degradation with a measure of effectual separation for the parties. Still some means might be devised to leave the religious contract unaffected, and yet to annul the consequences which grew out of the civil contract. The separation *è mensa et thoro* had, in fact, long existed, though the arrangement had not dissolved the parties *è vinculo matrimonii*. He thought a clause might be framed so as to give full legal effect to the separation previously arranged between the parties.

The Marquis of *Lansdown* said, he felt it his duty to protest against the doctrine, that there might exist a woman the wife of the King and not the Queen-Consort of these realms. He felt all the objections to the admissions of the clause before them, but he felt still more the difficulty of admitting a character directly irreconcilable to the constitution—a person being the wife of the King, but fulfilling no one purpose, answering no one end which the country expected, and had a right to expect, from the wife of the Sovereign. Their lordships, after admitting the clause, reading it a second time with the bill, and then rejecting it in the committee, would proclaim to the world that the Queen had been an adulteress; but that, entertaining that opinion, they thought it fit that she should continue the wife of the King. Disguise it as they would, this was the effect of their declaration. Was it a matter of indifference to proclaim this, when the whole course of history and the whole tenor of the laws, asserted the principle that the marriage of the King was contracted to answer, not individual purposes, but great public objects, and when parliament had legislated with that view? Admitting that the Queen might be degraded, and yet remain the wife of the King, they incapacitated her, and also the King himself from rendering those public services by means of marriage, which parliament always had considered that the marriage was contracted to answer. He did not say that he approved of the clause in itself, because he did not approve of the bill at all; but he besought them to look whether it was not a necessary deduction from the other clauses. If they left it out, they would only add one more to all the other anomalies of this extraordinary measure. They then would have a person against whom it was alleged, that when in the situation of princess of Wales, she had committed adultery; who continued princess of Wales for years after that adultery was alleged to be committed; who becoming the Queen, and having committed no adultery as Queen, was degraded by their enactment, on account of that previous alleged adultery; who ceased to be Queen, but yet continued to be the wife of the King, and was recorded, though an adulteress, as a person who might succeed to the throne of these realms. Neither would this be just to the Queen. They would have stripped her of all the attributes, but would leave her subject to all the disabilities arising out of her contract. Her majesty would have a right to complain that she was to remain subject to the authority when she was deprived of the protection of a husband. This divorce of course was only justifiable on the ground of adultery, which he did not think was proved; but he should not have quitted his conscience if he had not declared his conviction that this clause was an inherent part of the bill, and that the bill must be passed *in toto*, or that one other anomaly must be added to this anomalous measure.

Lord *King* said, he was anxious to see the enactments of the bill less absurd than the preamble was unjust; for he considered there was an utter want of evidence, and that the noble lords had been influenced by reports. He would confess that he, for one, had not been able, though he endeavoured to divest his mind of them. He had heard, for instance, in support of the assertion, that the Queen had been guilty of indecent familiarities with Bergami, that she had been guilty of indecent familiarities of the same nature with the earl of Liverpool, at Blackheath, *videlicet*, playing at blindman's-buff; and also with the chancellor of the exchequer. The time when this happened he had not heard; perhaps it was when he was out of office, and trying to get in again [" No, I assure the noble lord," from lord Liverpool]. Perhaps,

then it was just before the Regency [" Never, I assure the noble lord," from lord Liverpool].

Earl *Grey* said, that in his opinion, the separation of the Divorce clause from that which enacted degradation was utterly incompatible with that sense of duty towards the Crown which the Crown had a right to expect from the supporters of this bill. He felt considerable difficulty in voting for this clause, as it assumed that that had been made out which he thought had not been established. He had formed the intention of giving no vote; but he now made up his mind to vote for retaining this clause, believing that it would place the House in such a situation that they must reject the bill altogether, and thus confer upon the country the greatest service that it was in their power to confer.

Lord *Ellenborough* entreated of their lordships to consider what they were in effect declaring to the country, by enacting, that a person unfit for being the Queen of this country, must remain the wife of the King. It was, in fact, passing a seditious libel against the King.

Lord *Somers* could not reconcile it to his mind to vote that a person declared guilty of adultery should remain a millstone about the King's neck.

The Earl of *Limerick* said, he had voted for the second reading from the clearest conviction of the Queen's guilt; but if this clause were omitted, the bill would degrade, not only the Queen, but the King, and the nation, by leaving as the wife of the possessor of the throne a woman whom they had declared to be guilty of adultery.

The Earl of *Essex* thought he could reconcile to himself the inconsistency of voting for the Divorce clause, even after the perfect conviction that not one atom of the preamble of the bill had been proved. He never had a doubt, that at no distant period, this foul conspiracy would come to light, and that the plots of the Grimms and the Omptedas would be developed. He felt it his duty to state, in justice to this illustrious princess, that in 1819 he had the honour of waiting upon her at Lyons, where there existed no mystery whatever, and where the conduct of Bergami was of the most respectful description.

Lord *Anson* said, he would vote for the Divorce clause, in order to give the greatest possible chance of throwing out a bill which imputed guilt to an innocent Queen.

The Earl of *Thanet* declared his entire conviction of the innocence of the Queen; in the hope of saving whom from the foul confederacy which sought her destruction, he should vote for the Divorce clause.

The Earl of *Carnarvon* begged their lordships to consider what the consequence would be of passing a bill of degradation without Divorce. They were all aware of a statute which made it high treason to violate the wife of the sovereign. They proposed to pass a bill of degradation in order to protect the morality of the country. Her majesty might still remain in the kingdom and might continue to indulge in that vice which they assumed to be proved. Would any noble lord say that her prosecutors could come to that House for a second bill of Pains and Penalties against her majesty? If this were purely a bill of divorce, no ground whatever could be assumed for degradation but the ground of divorce on account of adultery. Were their lordships to declare, by their vote, that a person not fit to be the associate of the meanest individual in the land, was yet a fit individual to be the associate of the King? He, for one, would never concur in such a wanton insult on the King.

Lord *Holland* said, that in his view the objection to the bill was ten times stronger than it could be in his noble friend's view. If they rejected the divorce, the Queen would still be the companion of the King, and whoever should violate her, would be guilty of high treason. He would vote for the clause, in order to throw out the bill.

The Marquis of *Buckingham* said, he had been anxious to hear the opinions of the reverend bench of bishops on this subject; and the result of their opinions had confirmed those which he had before entertained, that, by the law of God, there was no impediment to divorce in cases of adultery. He differed in opinion from a learned lord, who had said, that if the divorce clause was rejected, the Queen would only remain wife of the King as to her religious rights, but that all her civil rights would be forfeited. Finding nothing in the law of God to prevent divorce for adultery; and, believing the adultery in the present case to have been proved, he would not consent, that a woman, who had been deemed unfit to retain the rank and situation of Queen,

should still be declared fit to be the wife of the King. This would be, to give the Queen a licence for adultery. They had heard one of the counsel for the Queen conclude a speech—the eloquence of which had been seldom equalled—with the words of Scripture, "Go, and sin no more." But if they excluded, the divorce, they would say, "Go and sin, for no punishment shall follow."

The Earl of *Glasgow* said, that from the evidence an irresistible conviction having been impressed on his mind that adultery was committed, he voted for the second reading of the bill. No consideration on earth could have induced him to vote as he had done, but a thorough belief that the charge was completely made out. He could enter into no compromise with adultery, and must therefore support the clause.

Earl *Manvers* said, that the bill had his most entire and unqualified approbation, and that he would never consent to the exclusion of the only important enactment, and one which necessarily followed the preamble of the bill. A noble viscount had yesterday declared it as his conscientious opinion, that the Queen was the victim of a foul and base conspiracy. He trusted it would not be thought too presumptuous in him, if (after having given the evidence and arguments on both sides the most anxious attention) he declared, from an equally conscientious conviction, that instead of being the victim of a foul conspiracy, her conduct had been most degrading and scandalous—most adulterous and infamous.

Lord *Hampden* said, he must vote for divorcing one whose name was covered with shame, disgrace, and dishonour.

Lord *Falmouth* said, that a noble marquis had stated, that it was a monstrous anomaly to strip the Queen of her rights and privileges, and still suffer her to remain the wife of the King; but, was there a single woman in the country who had no civil, no private rights? One of those rights, and it was the right of every married woman, was her husband's protection. If their lordships were of a different opinion, he should regret having suffered the bill to reach its present stage, without having declared his sentiments against it. A right reverend prelate had reminded them of the principle, that the King could do no wrong. This might be a good principle in law; and he knew that it was in some senses correct; but, if taken according to the letter, his reason rejected it; he would yield to no one in his attachment to his sovereign; but he would neither be doing his duty to that sovereign, nor to himself, if he did not also admit, that the King had private rights and duties to perform, within his own family in particular, as well as the meanest of his subjects.

The Earl of *Darnley* said, he was under the painful necessity, however, of differing with his friends, so far as to think that the divorce clause ought not to stand part of the bill. The argument of the right reverend prelate had not been answered. Feeling irresistibly the force of it, he could not consent to give a vote for the divorce of the Queen, but he would give no vote on the other side.

The committee then divided on the question, "That the divorce clause stand part of the bill." Contents, 129; Not-Contents, 62: Majority for the divorce clause, 67.

List of the Minority.

Duke of Clarence.	Earls Courtoun
Archbishops York	Mount Cashel
Tuam	Romney
Dukes Wellington	Stamford
Portland	Brownlow
Beaufort	Fitzwilliam
Marquis Cornwallis	Viscounts Melville
Earls Stanhope	Sidmouth
Balcarras	Falmouth
Dartmouth	Lords Hill
Aylesford	Rodney
Verulam	Yarborough
Morton	Saltoun
Portsmouth	Bayning
Caledon	Kenyon
Lauderdale	Hopetown
St. Germains	Suffield
Aylesbury	Eldon, Ch.
Bathurst	Calthorpe
Harrowby	Combermere
Liverpool	Sydney
Mulgrave	Curzon
Westmoreland	Gambier
Macclesfield	Bishops Chester
Lonsdale	Cork
Mount Edgcumbe	Peterborough
	Gloucester
Farnham	St. Asaph
Pomfret	St. David's
Whitworth	Ely
Mayo	Worcester
Winchelsea	

Lord King said, that he should submit to their lordships a clause, the insertion of which in the bill seemed a matter of course, considering that the Queen was not remotely placed in the illustrious line

of succession to the Crown of these realms. He therefore would move this clause—"And be it further enacted, by the authority aforesaid, that in case the Crown of these realms shall at any time descend to her said majesty Caroline Amelia Elizabeth, then, and in such case, this present act shall become void and of no effect, and the whole of the preamble thereof shall be deemed and taken to be false, calumnious, and scandalous, upon the same evidence on which it hath now been held to be sufficiently proved." The clause was negatived; and the House resumed.

HOUSE OF LORDS.

Thursday, November 9.

The order of the day being read, the report of the committee on the Bill was brought up by the earl of Shaftesbury.

The following is a copy of the Bill, as amended by the committee:

Bill entitled, An Act to deprive Her Majesty, Caroline Amelia Elizabeth, of the Title, Prerogatives, Rights, Privileges, and Exemptions of Queen Consort of this Realm; and to dissolve the Marriage between His Majesty and the said Caroline Amelia Elizabeth.

Whereas, in the year 1814, her majesty Caroline Amelia Elizabeth, then princess of Wales, and now Queen Consort of this realm, being at Milan in Italy, engaged in her service, in a menial situation, one Bartolomeo Bergami, a foreigner of low station, who had before served in a similar capacity:

And whereas after the said Bartolomeo Bergami had so entered the service of her royal highness the said princess of Wales, a most unbecoming and degrading intimacy commenced between her said royal highness and the said Bartolomeo Bergami; and her said royal highness not only advanced the said Bartolomeo Bergami to a high situation in her royal highness's household, and received into her service many of his near relations, some of them in inferior and others in high and confidential situations about her royal highness's person, but bestowed upon him other great and extraordinary marks of favour and distinction, and conferred upon him a pretended order of knighthood, which her royal highness had taken upon herself to institute, without any just or lawful authority:

And, whereas also, her royal highness, whilst the said Bartolomeo Bergami was in her said service, further unmindful of her exalted rank and station, and of her duty to your majesty, and wholly regardless of her own honour and character, conducted herself towards the said Bartolomeo Bergami, both in public and private, in various places and countries which her royal highness visited, with indecent and offensive familiarity and freedom, and carried on a licentious, disgraceful, and adulterous intercourse with the said Bartolomeo Bergami, which continued for a long period of time, during her royal highness's residence abroad; by which conduct of her said royal highness, great scandal and dishonour have been brought upon your majesty's family and this kingdom.

Therefore, to manifest our deep sense of such scandalous, disgraceful, and vicious conduct on the part of her said majesty, by which she has violated the duty which she owed to your majesty, and has rendered herself unworthy of the exalted rank and station of Queen Consort of this realm; and to evince our just regard for the dignity of the Crown, and the honour of this nation:

We your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, and Commons, in parliament assembled, do humbly entreat your majesty that it may be enacted; and be it enacted by the King's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that her said majesty, Caroline Amelia Elizabeth, from and after the passing of this act, shall be and is hereby deprived of the title of Queen, and of all the prerogatives, rights, privileges, and exemptions appertaining to her as Queen Consort of this realm; and that her said majesty shall, from and after the passing of this act, for ever be disabled and rendered incapable of using, exercising, and enjoying the same, or any of them; and moreover, that the marriage between his majesty and the said Caroline Amelia Elizabeth be, and the same is hereby from henceforth for ever wholly dissolved, annulled, and made void, to all intents, constructions, and purposes whatever.

The Lord Chancellor was proceeding to read the Amendments made to the Bill, when

Lord *Ellenborbugh* said, that as all the modifications in the bill, consisted merely in verbal alterations he called upon those noble lords who had voted for the second reading, under an idea that the preamble and enactments would undergo a material change, to vote for the rejection of the bill.

The Earl of *Lauderdale* wished to say a few words with regard to what had occurred on leaving out the divorce clause. Their lordships had been distinctly told by a noble lord of the highest political talents, and a person for whom he entertained the greatest respect, that his rea-

son for voting, with a view to keep in that clause, arose from his wish to stop the measure altogether. Now, after such a declaration, he would ask those noble lords who really objected to the clause, and who wished to remove it from the bill, but had thus been disappointed, whether they could with propriety aid this trick and manœuvre by voting against the third reading?

Earl *Grey* said, that to be accused of tricking and manœuvring, when he openly avowed the object of his conduct, appeared to him the most extraordinary charge ever made in that House. If tricks and manœuvres were to be referred to, what was to be said of the tricks and manœuvres of those who, in order to obtain votes for the second reading of the bill, held out an expectation, that the divorce clause would be abandoned in the committee, and that the bill would undergo very material alterations and modifications? Had it not been for that expectation, many a noble lord would not have voted for the second reading. But the noble and learned lord on the woolsack, after a very eloquent speech in support of the divorce clause, concluded with voting against it; and in this conduct he was imitated by several cabinet ministers, who had themselves introduced the clause. This, however, he supposed they had sufficient reason for doing. He agreed with the noble lord (Ellenborough) that those who voted for the second reading of the bill, in hopes of its being altered in the committee, had been grossly deceived. He hoped that those noble lords who had given a pledge that they would not vote for the bill with the divorce clause, would now redeem that pledge, and get rid of the bill altogether.

The Earl of *Lauderdale* had not said that his noble friend had been guilty of any unworthy trick or manœuvre. What his noble friend had done was a parliamentary trick often practised in the best of times; and he would refer to his noble friend whether such trick and manœuvre had not always been, when resorted to, met in the way he had endeavoured to meet it, by warning those against it whom it was directed, not to yield to it.

The Earl of *Liverpool* said, with respect to the divorce clause, he would also ask, if any one could fairly accuse him of trick or manœuvre? Had he not, from the beginning, represented that this was not an act for personal relief, but for the remedy of a great public grievance? Had he not stated that, though, in his own opinion, there was no just objection to the divorce clause, even as a public measure, yet, if it were hostile to the religious prejudices of any considerable number of their lordships, he did not think it a matter of so much importance as to make him go counter to those prejudices? Whether his conduct had been right or not, no person could impute to him that he acted from unfair motives, or in any other than the most open and undisguised manner.

After some further conversation, the amendments were agreed to. The duke of Hamilton then moved, that the words "adulterous intercourse," be omitted; which being put, was negatived.—The earl of Carnarvon also moved, as an amendment, that after the words alluding to her royal highness's residence abroad, these words should be inserted:—"That after her royal highness's return to this country, 50,000*l.* per annum of the public money had been offered to her, together with the proffered homage of both Houses of Parliament." The amendment was put and negatived.

Lord *King* moved, that the words previous to the words "great scandal and dishonour," should be omitted, and the following words substituted:—"And whereas certain commissioners were appointed to proceed to Milan, who, together with one Vimercati, have collected a mass of false and infamous evidence, which appears, during many days and weeks to have been detailed at the bar of the House of Peers, whereby"—then would follow the original words of the clause "great scandal and dishonour have been brought upon your majesty's family and this kingdom." If this amendment were acceded to, he should move this further addition to the clause, "That the persons who acted as such commissioners at Milan, shall forbear to hold, and for ever after shall be disabled and rendered incapable of holding, any place of profit or emolument under the Crown." If this motion were carried, the bill would still be a bill of Pains and Penalties, but the punishment would be inflicted upon the proper, and not upon the undeserving object.

This amendment was also negatived.

Lord *Kenyon* rose to propose an amendment. His object, he said, was to get rid of the divorce clause. Could he by any means have brought himself to con-

sent to the present bill, which he considered most odious, unjust and unchristian, still he could never assent to the divorce clause. His objections to that clause rested essentially on religious principles. It appeared perfectly clear to him, that the measure, as it now stood, was inconsistent with the doctrine delivered by our Saviour. Even had crimes of the most aggravated nature, specified in the bill, been proved by the most unexceptionable testimony, he should still conscientiously object to the divorce clause. Whatever might be its expediency in a political, he should still vote against it in a religious point of view. National expediency ought never for a moment, to be put in competition with the interests and duties of religion. Our Saviour has said, that, "Whoso putteth away his wife, except for fornication, causeth her to commit adultery." The husband himself might therefore, according to this passage, be the occasion of his wife's guilt; and he would ask whether a man so circumstanced, could, with justice apply for relief? He was aware that some of the learned prelates, had put a different interpretation on the text, and he lamented that they had done so: but others of, at least, equal authority, held the same opinion of it as he did. This gave him much pain as he had but too much reason to know that, by their conduct on that occasion, they had materially lowered themselves in the estimation of the serious and religious part of the community, who could not comprehend how there could be a different rule of christian morality, between the prince and the subject. Cases of this kind were not unprecedented. There was one which occurred in the time of his revered father, in which it appeared that the wife, long before the alleged offence, had been deserted by her husband, who had also, as in this case, released her from all responsibility to him. Application was made to this House for a bill of divorce; but, on those circumstances appearing, it was instantly rejected; and a learned prelate, who was present at that discussion, bishop Horsley, scouted all idea of relief, under such circumstances. What man holding christian principles, or believing in the christian faith, could grant a divorce even for adultery, to a husband, who is stated by the Divine Author of christianity to have caused the adultery? The divorce clause was then plainly opposed to the words already quoted, and he must, most unequivocally reject the explanation of the text, given by a learned prelate on a former day, that it applied only to local circumstances, and to a particular institution of the Mosaic law. He could not coincide with it; because he had always learnt to consider our lord's sermon on the mount, in which those words were used, as a summary of christian morality and as precepts of universal application, to remain in force so long as the christian religion should endure—which it would to the end of the world. The noble lord added, if your lordships agree to the bill, in its present shape, you will, in effect, decide, that the principles of christian morality are to be interpreted differently for the monarch and his subject. But it must not, cannot be. By these principles I have been guided thus far in the performance of my duty, and by these principles I shall endeavour, by the blessing of God, to shape my conduct during the remainder of my life—nor will I sacrifice these principles, which I consider of paramount importance, to any notion of temporal expediency. For the sake therefore of recording my sentiments, I now move, that all the words after "any of them" be omitted—viz. "and moreover that the marriage between his majesty and the said Caroline Amelia Elizabeth be, and the same is hereby, from henceforth, for ever, wholly dissolved, annulled, and made void, to all intents, constructions, and purposes whatsoever."

This motion was negatived, and the House adjourned.

HOUSE OF LORDS.

Friday, Nov. 10.

The order of the day being read for the third reading of the bill,

The Earl of *Morley* said, that, having been one of those who thought that the course of events subsequently to the late arrival of her majesty in this country, had rendered an inquiry into her conduct absolutely necessary—having thought that it was equally necessary the inquiry should be of the nature which it afterwards had been—having thought then, as now, that his noble friends who were charged with his majesty's administration, were actuated only by an imperative sense of duty in bringing the subject before parliament, and having concurred in their measures respecting this inquiry, up to the stage

of the second reading of the bill, he felt himself bound to state the reasons which prevented him from voting with the majority on Monday last, and which continued to influence him in rejecting the third reading of the bill. His chief reason was, that the charge of adultery set forth in the preamble was not fully substantiated by proof. No man ought to vote for this bill who did not think the charge clearly established against her majesty. He further thought, that the provisions of the bill, if not of a revolutionary complexion, were at least anti-monarchical in their form. The charge set forth in the bill was spread over so long a period as six years; and it appeared to him particularly singular that no one specific act of adultery was proved to have been committed on any given day, throughout the long period comprehended within the sphere of the charge. Inferences had been, he admitted, and some of them of a very strong nature, drawn from particular parts of the Queen's conduct, but none of them, in his mind, amounted to proof. The distinction which he drew from the length of time embraced by the charge was this—that in proportion as the bill was extended in point of time, so in the same proportion ought the proof of particular acts to be direct and conclusive; and for this plain reason, that the length of time facilitated the opportunities of proof, and multiplied their amount. He would state shortly his reasons for believing that the act of adultery had not been committed on board the polacre. In the first place, it was proved, that it was the custom of the eastern countries to repose without undressing; and thus it appeared it was that the Queen and Bergami had slept under the tent or awning on board the vessel. In the next place, there was a constant communication open between the tent and the cabins below. Was it possible that her royal highness could be other than aware that her motions were likely to be watched? Would she then have suffered this communication to remain open, had a criminal intercourse been carried on between her and Bergami? During the whole night the tent was surrounded by eleven or twelve persons. Now, when it was considered how many circumstances might have caused some of those persons to come into the tent, it appeared to him that it was very unlikely that the act of adultery was committed in that situation. It was certain that the adultery had not been proved. He then argued, that what had been proved antecedently to her royal highness going on board the polacre, did not establish the adultery.

Lord *Somers* said, that nothing would give him more satisfaction than to be able to say that in his judgment the bill ought not to pass. Sorry he was that a conviction directly the contrary was decidedly fixed in his mind. He thought it nearly impossible to doubt that the guilt of her majesty had been established, when a considerable majority of their lordships had voted for the second reading of the bill, and when many of those peers who decided against its being read a second time, had expressed strong suspicions of her majesty's conduct, while several of them had positively declared their conviction that she was guilty. It appeared to him, that several points were to be considered in deciding on this case. The first point to be considered was the positive proofs which they had of the Queen's guilt. It had been argued, that the character of the persons who had given evidence at the bar, was such as to deny them all claim to credit, and that their testimony was shown to be such, that it must be regarded as destructive to the whole charge. To him it appeared, that the direct reverse of all this had turned out to be the fact. The evidence of Barbara Kress was such, that a noble lord opposed to this measure had given it as his opinion, that she was a fair and ingenuous witness; but he had argued that she might have been mistaken. He must contend, that on every fair consideration of evidence, the testimony of Kress could not be invalidated. But after all the inquiries that had been made with respect to her character, not a single act had been proved against her. The noble lord having stated the case of Carlsruhe, and from the Minutes the Evidence given on this subject, declared that it appeared to him as strong as any evidence could be, that adultery had been committed. Bergami was seen in bed, with his arm round the neck of the princess, who was sitting on the bed, and the next day a cloak worn by her royal highness was found in the bed. What could be stronger than this? His understanding might be weak, but certainly such a fact carried conviction to his mind. He then noticed the evidence given by Kress, with respect to the stains which she had

observed, and commented on the natural way in which her testimony had been given. The facts she had stated, he thought, under all the circumstances of the case, supplied positive proof that the adultery had been committed. His lordship here alluded to several of the leading features of the case, and begged to say, that his conduct had been wholly misrepresented by "The Morning Chronicle." That paper had asserted, that he was present during the whole of the case for the bill, and absent during all the Queen's case. Now, the only periods in the progress of the case during which he was absent were, during the evidence of Hownam and Flinn, and during the summing-up of Mr. Denman, and the solicitor-general's reply. He now came to that part of the case which showed that Bergami, the courier, dined at the same table with the princess, attired in that livery in which he had waited behind her chair. If any thing could have been wanting to satisfy any reasonable mind of the nature of the connexion which was subsisting between him and the princess, this proof was decisive of her guilt. His lordship also remarked on the extraordinary conduct of lady Charlotte Lindsay, in affecting not to recollect whether she had or had not used expressions with respect to the princess, detracting from her character as a modest and virtuous woman. He could not conceive how that lady should be thus deficient in recollection as to a point of such infinite importance on a question like the present. His lordship then concluded by declaring on his conscience that he felt himself called upon to vote for the bill.

Earl *Fortescue* said:—My lords; I have abstained from offering myself to your lordships in the earlier stages of this business, in the persuasion that my sentiments were delivered by my noble friends who sit near me, with much more satisfaction to myself, and with much greater impression on the House, than they would have been expressed by me. If, however, I could mistrust my own judgment in this matter, it would be because it differs from that of a noble person (lord Grenville), with whom I am not more connected by the ties of relationship, than by habits of mutual confidence, and by entire unity of sentiment. I reflect with pride and satisfaction that this is the first time that I have differed from him on any subject of great public importance, and I hope and trust, that in the course of political events it will be the last. My lords, I will frankly own that I first met the discussion of this subject, with a strong prepossession upon my mind against the manner in which it was brought before us. A bill of pains and penalties cannot, in my opinion, be justified by any motives short of extreme and imminent danger to the state, or by the apprehension of a disputed succession to the Crown, which perhaps may be considered as the greatest of all emergencies, and certainly no case within that description has been made out. Nevertheless, my lords, as the matter of accusation was brought to us in this shape, I was prepared to vote for the passing of the bill, if the charges which it contains had been proved by uncontroverted and unsuspected evidence; but so far from this character applying to the testimony that we have heard in support of these allegations, the greatest part of it has been entirely blown out of court. I am ready to concur with the noble lord who spoke last, at least so far as to admit that the sudden elevation of Bergami, with all the circumstances that attended it, affords strong ground of presumption, so much so, that if any fact had been raised upon it, and proved in the manner in which I have already insisted, it would have led my mind to the conclusion of an improper intercourse having subsisted even to the extent of adultery; but I maintain that no such matter has been proved, and we are not warranted, whether in our judicial or legislative capacity, in passing a bill of this nature upon bare presumption. My, lords, I wish to say a few words on the subject of the vote which I gave in the committee. We had been told (probably with the view of composing the scruples which had been entertained and professed by some noble lords about voting for the bill) that some material alterations would be made in the committee, and we were given to understand that these alterations were of a mitigatory nature, so made as to shape the bill to the remnant of the charges which, in the opinion of some of your lordships, had not been wholly disproved. I looked in vain for these mitigations in the preamble, which remains just as it was, with the single erasure of the monosyllable *the*, and the substitution of Bartolomeo for Bartolomo. How far those amendments have met the wishes or expectations of any noble lords, I do

not pretend to say; for my own part, I never entertained any wishes or scruples on the subject, and therefore was liable to no disappointment. Not finding, however, any mitigation in the preamble, I looked for it in the penal clauses, and perhaps there is the point in which some noble lords have found their satisfaction. But to my mind the withdrawing the divorce clause would have been an aggravation of punishment, and in that view I gave my vote for its being retained. I will not, however disguise that I had a further motive (which has been frankly avowed by my noble friend, lord Grey), that it might indirectly operate the effect of throwing out the bill. My lords, by withdrawing this clause, you would have left the Queen subject to all the obligations and inconveniences which are attached to the matrimonial state without any of the comforts and advantages which are derived from it, for it is a matter of universal notoriety, that the affections which a wife has a right to claim from her husband, as well as his protection have been withdrawn from her for more than twenty years; therefore, a release from such a state of matrimony is in my view of the case, an indulgence which she has a right to expect at your lordships hands. My lords, I must now be permitted to say, that I have seen, with pain and sorrow, the manner in which royal personages have been exhibited to the public view; certainly, to say the least of it, not with the effect of cherishing that respect in which they ought to be held. We all know, that persons in those elevated situations are not exempt from the frailties and imperfections which are in the common condition of mortality; examples have not been wanting of great and flagrant deviations from the moral course in persons of this high description; but it has been, and properly been, the policy of other countries to throw a thick veil over their immoralities, so as to keep them from the public view. If this practice has obtained in countries subject to arbitrary power, by how much thicker a veil should they be shaded in a limited and constitutional monarchy, where the want of power in the sovereign is to be supplied by the outward drapery with which the throne is surrounded, and, above all, by public opinion. My lords, the mischief which has been done in the progress of this bill is great, but still I hope it may not be irreparable. It remains for us who are the hereditary counsellors of the Crown, to unite our efforts on both sides of the House (for I must consider that distinction to have found its way into this as into other political questions), to join with all the other orders of the state as far as our influence extends, to restore the person and character of the sovereign, to that level on which, in the right view of the constitution it ought, to stand, and in my opinion the first step towards attaining this end, will be, the rejection of the present bill.

The Duke of *Bedford* said, he must express his decided dissent from a measure, which was, in his opinion, "derogatory from the honour of the Crown, and injurious to the best interests of the nation." He had refrained from giving any vote upon the question when the bill was in a committee, because he felt that he could not conscientiously vote for it, without admitting that the Queen had been guilty of adultery and of indecency, and thereby dishonouring both her majesty and the King. It was with extreme astonishment, however, that he saw his majesty's ministers opposing the divorce clause, thus consenting to the emasculation of their own measure, and depriving it of that feature which alone could indicate their own belief in the premises. He confessed that he was quite surprised to hear the noble earl at the head of the treasury commenting upon that evidence and those premises in the way he had done, assuming as facts all that the pure, the modest, and the immaculate Demont, had been pleased to assert upon her examination. [Some signs of dissent were manifested among the lords on the opposite benches.] He understood the noble earl to argue as if he implicitly relied upon her testimony. The noble baron on the cross-bench had followed on the same side; but, if the noble lord would refer to the evidence of Dr. Holland, he would find that it afforded but the solitary confirmation of the fact relative to her royal highness's visit to the theatre St. Carlos. There was another circumstance upon which the noble earl had commented with peculiar severity; namely, that her royal highness had been guilty of the most unbecoming condescension in appearing at masquerades; on one occasion as an Automaton, and on another as the Genius of History. Now, really, in treating the subject in this manner, the noble earl appeared to know very little what was the custom of foreign courts, where it was

the usage with persons in high and superior situations in society to partake of these amusements, and to assume such characters as they chose. Upon the policy of such a measure as the present, he would observe, that there were, as had been stated by a noble earl, certain circumstances in the private history of most princes and princesses, which made it highly necessary that the veil should never too rashly be withdrawn. Let their lordships look at the private life of the great Elizabeth herself; and then he would ask them, supposing that she had been surrounded by spies, and watched by corrupted domestics, what would have become of the boasted glories of the character and reign of that illustrious princess? Their lordships could not fail to have seen with amazement, that, while the charge against her majesty in this case was for a course of criminal and improper conduct during six years, from 1817 to the present year, not a shadow of evidence had been brought to prove the Queen's guilt. In answer to repeated inquiries, they had been told that the state was the prosecutor. It was necessary to know by whom the state was represented; and then they were informed that the King in his constitutional capacity, was the prosecutor. The King not appearing in this case, another inquiry still remained. What he wanted to know was this—Who is the ostensible prosecutor? Why, they found that the confidential servants of the Crown were the prosecutors; yet were their lordships told that there was nothing anomalous in the case! Good God! To his imperfect understanding there appeared to be nothing but anomalies. He would, however, say, that if he were sitting in that House in his judicial capacity and he was asked whether he believed the Queen to be guilty or not guilty of the charges imputed to her, he should answer most conscientiously, and, from the bottom of his heart, "Not Guilty, upon my honour." He should do so the more unhesitatingly, because he had come to this inquiry with strong prejudices against the Queen.

The *Lord Chancellor* said, it did appear to him, he must confess, to be totally impossible, that any man should vote for a second reading of this bill, who did not feel himself entirely convinced of the guilt of the Queen. It was not, in that stage of the proceeding, his duty to enter into any consideration of the policy of what might be to be done, should their lordships think her guilty. He took the liberty to point out to their lordships that it would be quite competent for them, provided they felt confident that the whole or part of the charges were substantiated in evidence, to alter the preamble of this bill, so as to assert or deny, first, every thing which they believed to be true, and which might be retained; and then every thing which was not made out upon legal evidence; and this they might leave out. Returning for a moment to the divorce clause—a majority of the House had voted in its support; but he would suggest to noble lords that it might be a question whether parties should be separated by a divorce "*a mensa et thoro*," or by a divorce only "*pro salute animi*" in which latter case the individual, however, may not be able to prove the adultery. The plain question here, however, was, what was just; his own opinion being that they could not act justly or fairly in voting for the bill, if they did not do so from a conviction of her majesty's guilt. Your lordships heard the other day a very able argument on the way in which judges estimated circumstantial evidence. I do not, however, see that there was much analogy between the cases cited by the noble lord (Grenville) and the present; there the circumstances all bear on one point; that the first proof must be that the crime was committed, that a person had been murdered; and it is by circumstantial evidence that the crime is brought home to the guilty individual. I recollect a case in which a man was found dead on the highway, and shot through the head; the wadding of the pistol was found clotted in the hair of the deceased; and, on the head being washed, a piece of paper was found unconsumed. This fragment was also washed, and, proved to be part of a ballad, the remainder of which was found in the pocket of another person, who was apprehended on suspicion of being the murderer. Here was strong proof. In cases of circumstantial evidence, there are antecedent facts from which inferences may be drawn. But if your lordships will only decide cases of adultery on the positive fact having been proved, it is necessary to avow such a determination, and to declare that all the divorces hitherto obtained have been wrong. Much will always depend on antecedent circumstances. Suppose a lady and gentleman going into a room and locking the door, which is afterwards

forced, and they are discovered preparing to commit adultery, this would be no evidence of the fact; but if, a few days afterwards, the same parties lock themselves in a room for some hours, or be found for five weeks sleeping in the same apartment, would any one say that their preparing for committing the act was not a strong antecedent proof that it was afterwards committed. Laying aside the evidence of Majoochi and Demont, and looking at the uncontradicted evidence in support of the case, and the evidence for the defence which afforded in this as strong a legal presumption of guilt as the evidence for the bill itself—and looking also at the evidence which might have been produced for the defence, and the non-production of which ought to have been accounted for; —looking at all the circumstances, I think it would be difficult for any man to lay his hand on his heart, and say "Not Guilty."

The Bishop of *Chester* said, he had given his vote to the second reading of this bill upon the full but painful conviction that her majesty was guilty. As it appeared to his judgment, the crime of adultery could be proved by circumstantial evidence alone; and it also appeared to him, that in the present case, that evidence had been accumulated in a most convincing manner. If, as she solemnly protested in the name of her Maker, she were innocent, never in the annals of the world was innocence accompanied with such corroborating circumstances of guilt. He had voted against the divorce clause, because he thought it contrary to the religious precepts expounded by the Divine Teacher of Christianity. These were the motives which induced him to vote as he had done; and he wished them to be understood, in order to repel the insinuation that those who voted against the divorce clause were degrading the King. So far was this reflection unmerited on his part, that he had heard with surprise and abhorrence the abuse which had been made of the sacred name of their sovereign. One noble earl had said, that he would have thrown the Liturgy in his face. And it was with shame and horror he had heard a monarch, whose regency would bear a triumphant comparison with the proudest period of our history, compared with the most sanguinary and merciless monster that ever degraded the human form—the eternally execrated despot of Imperial Rome. Having voted for the second reading of the bill, because in his conscience he believed the Queen guilty, and having opposed the divorce clause, because it was in opposition to that ministry whose imperfect servant he was, he could not, now the clause was retained, consistently vote for the third reading of the bill, and he should therefore withdraw without voting one way or the other.

Earl *Grosvenor* said, that as an allusion had been made to an expression of his, by the right rev. prelate, he begged permission to explain the phrase he had made use of. It was perfectly true, that he had used the words imputed to him; but he had done so in this manner. A rumour had prevailed—whether true or not he at the time had said he could not tell—that the supporters of ministers had given out that his majesty was the main cause of this unfortunate question being agitated, notwithstanding the decided voice of the country; and that it was the King himself who desired the archbishop to omit her majesty's name in the Liturgy. He had said at the time that he thought this rumour extremely discreditable to ministers; and, having thus stated his opinion of it, he certainly did declare, that were he in the situation of the archbishop, feeling, as he did, the evil which the erasure of the Queen's name was likely to entail upon the country, he should, sooner than strike it out from the Liturgy, have thrown the Prayer-book in his majesty's face; had he been even pressed by him so to do, which he could not believe. And he had also said, that under such circumstances, sooner than remain one of his majesty's administration, he would have trampled upon the seals of office. Such were his sentiments upon the measures; and he implored the House to consider the situation in which it would be placed, if, in decided opposition to the general sense of the country, they pressed this bill with such a majority for its second reading as 28, in a House of 223 members present. That majority could never be supposed as giving the real concurrence of the House to a bill of this nature; and unless it had the general concurrence of the House, the minister had said at the commencement of the business he thought it ought not to be pressed. The more he thought of the matter, the more decided was his impression of its obnoxious character.

Lord *Erskine* should content himself with saying, notwithstanding his great re-

spect for the learning of his noble friend on the woolsack, that he continued of the opinion he had formerly given on the subject of the evidence, declaring that, if it were the last word he had to utter in this world, he should pronounce it to be wholly insufficient to support the charge; nor could he have supported it in any court where justice was duly administered. As to the Queen being guilty on the testimony of her own witnesses, he denied it altogether, for the reasons he had already given.

The Duke of *Grafton* said, that upon looking into the whole of the evidence, he must pronounce a verdict of Not Guilty.

The Marquis of *Huntley* said, that he was satisfied of the guilt of her majesty, and should therefore vote for the third reading of the bill. The evidence of Hownam alone, was sufficient to convince him of that, and he was only surprised how the noble lords opposite could entertain a contrary opinion on the subject; and he hoped that, considering the sincerity they evinced of her majesty's innocence, they would add to it by letting their wives and daughters associate with the Queen, He was anxious not to give a silent vote upon this occasion, in consequence of the threats held out by the counsel at the bar.

The Marquis of *Donegal* said, that he had closely attended throughout the whole of these proceedings. In his opinion the evidence of Majoochi and Demont, which bore the burden of the proof in this case, was inconsistent. His clear and conscientious vote was therefore against the bill.

The Bishop of *Gloucester* stated, that he could not concur in the divorce clause in this bill, which, if not hostile to, was certainly inconsistent with, the spirit and tenor of the Christian morality and law. It did appear to him inconsistent with the standing order of the House on other occasions, and not according to impartial justice between the parties. This being his conscientious feeling, regarding the Divorce clause, he was compelled to vote against the third reading of the bill.

Lord *Alvanley* expressed his determination to oppose the third reading of the bill.

Lord *Ellenborough*, in voting against the bill, could not help making this observation: — that, among the strange peculiarities of this case, was this: that the strongest evidence of her majesty's guilt was derived from her own witnesses.

The Earl of *Darnley* implored those noble lords, whose opinions were yet wavering as to the expediency and policy of this bill, to step forward in this its last stage, and stay a measure so pregnant with such disastrous consequences.

The House then divided on the question, "That the Bill be now read a third time." The numbers were: —

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List of the Contents, and also of the Not-Contents.

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Dukes of York	Aylesbury
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Beaufort	Balcarras
Marqs. Conyngham	Home
Anglesey	Coventry
Camden	Rochford
Northampton	Abingdon
Exeter	Earls Shaftesbury
Headfort	Cardigan
Cornwallis	Winchilsea
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Lothian	Viscounts Exmouth
Queensberry	Lake
Winchester	Sidmouth
Earls St. Germains	Melville
Whitworth	Curzon
Verulam	Sydney
Cathcart	Hereford
Mulgrave	Bishops Cork
Orford	Landaff
Manvers	Peterborough
Ross	Ely
Westmoreland, C. P. S.	St. David's
Nelson	Worcester
Powis	St. Asaph
Limerick	London
Donoughmore	Lords Harris
Belmore	Ross (Glasgow)
Mayo	Meldrum
Longford	(Aboyne)
Mount-Cashel	Hill
Kingston	Combermere
Liverpool	Hopetown
Digby	Manners
Mount-Edgecombe.	Ailsa (Cassilis)
Strange (Athol)	Lauderdale
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St. Helen's	Grenville
Northwick	Suffield
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Grafton	Bishop of Gloucester
Richmond	Lords Breadalbane
Somerset	Erskine
Leinster	Arden
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Stafford	Alvanley
Lansdown	Loftus (Ely)
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Bradford	Bayning
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Enniskillen	Auckland
Farnham	Gage
Carrick	Fisherwick (Donegall)
Carnarvon	Amherst
Mansfield	Kenyon
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Grosvenor	Berwick
Hilsborough (Marquis of Downshire.)	Ashburton
Delawar	Bagot
Ilchester	Walsingham
Egremont	Dynevor
Fitzwilliam	Hawke
Portsmouth	Sundridge (Argyle)
Stanhope	Ducie
Cowper	Holland
Dartmouth	Grantham
Oxford	Ponsonby (Besborough)
Roseberry	King
Jersey	Belhaven
Albemarle	Clifton (Darnley)
Essex	Dacre
Thanet	Audley
Denbigh	De Clifford
Suffolk	Foley.
Derby	
Say & Sele	
Howard of Effingham	
De la Zouch	
Clinton	

During the exclusion of strangers :—

Lord *Dacre* observed, that he had been entrusted with a petition from her majesty, praying to be heard by counsel against the passing of the bill.

The Earl of *Liverpool* said, that he apprehended such a course would be rendered unnecessary by what he was about to state. He could not be ignorant of the state of public feeling with regard to this measure; and it appeared to be the opinion of the House that the bill should be read a third time only by a majority of nine votes. Had the third reading been carried by as considerable a number of peers as the second had been, he and his noble colleagues would have felt it their duty to persevere in the bill, and to send it down to the other branch of the legislature. In the present state of the country, however, and with the division of sentiment so nearly balanced, just evinced by their lordships, they had come to the determination not to proceed further with it. It was his intention, accordingly, to move "That the further consideration of the bill be adjourned to this day six months."

Earl *Grey* complained of the whole course which ministers had pursued with regard to the bill, which, after the declaration of the noble earl, could scarcely be said to be before the House, but which was still before the country, and would long live in its memory. He charged the servants of the Crown with the grossest neglect of duty, in the first instance, in listening only to *ex-parte* evidence, and giving a willing credence to the most exaggerated and unfounded calumnies. They had thus for many months agitated the nation—they had produced a general stagnation of public and private business —and they had given a most favourable opportunity, were it desired, to the enemies of internal peace and tranquillity. They had betrayed their King, insulted their Queen, and had given a shock to the morals of society by the promulgation of the detestable and disgusting evidence, in the hearing of which, the House had been so long occupied. The noble earl also reprobated, in the severest terms, the conduct of the Milan commissioners, who having been appointed, not to investigate

truth, but to obtain testimony of guilt, had found in this country but too great an inclination to put faith in all the stories that their agents and witnesses might invent against the honour and reputation of the Queen of Great Britain. The result had been that, after inquiries, secret and open—after the grossest calumnies and the foulest libels had been made the subject of detail and debate for fifty days—after all the injury that it was possible to do the Queen had been accomplished—the bill was abandoned, not without reason, but assuredly without apology. He would assure the noble lords on the other side, that the people would not be satisfied with the mere withdrawing of the measure, but would demand a strict inquiry into its foundation and origin.

Lord *Erskine* said:—I see the fate of this odious measure consummated, I heartily rejoice at this event. My lords, I am an old man; and my life, whether it has been for good or for evil, has been passed under the sacred rule of the law. In this moment I feel my strength renovated by that rule being restored. The accursed charge wherewithal we had been menaced has passed over our heads. There is an end of that horrid and portentous excrescence of a new law, retrospective, iniquitous, and oppressive; and the constitution and scheme of our polity is once more safe. My heart is too full of the escape we have just had to let me do more than praise the blessings of the system we have regained; but I cannot praise them adequately myself, and I, therefore, prefer expressing my own sentiments in the fine language of one of the most eloquent authors of any age, Hooker, who thus speaks in his great work on Ecclesiastical Polity:—"Of Law there can be no less acknowledged than that her seat is the bosom of God; her voice the harmony of the world: all things in heaven and earth do her homage; the very least as feeling her care, and the greatest as not exempted from her power. Both angels and men, and creatures of what condition soever, though each in different sort and manner, yet all with uniform concert, admiring her as the mother of their peace and joy."

The Duke of *Montrose* declared, in the most solemn manner, that he had given his vote for the third reading of the bill on the clearest and most conscientious conviction of the Queen's guilt.

The motion was agreed to, and the House adjourned to the 23rd instant.

PROTESTS AGAINST ADJOURNING THE FURTHER CONSIDERATION OF THE BILL.] The following Protests were entered on the Journals:

I.

Adhuc 10 *Die Novembris*, 1820.

Moved, That the further consideration of the bill be adjourned to this day six months; which being objected, the question was put thereupon. It was resolved in the affirmative.

"Dissentient,

"Because no sufficient ground appears for the abandonment of the bill, founded on the charges against her majesty the Queen, which had undergone the most solemn and accurate investigation: charges in which the morality of the country was deeply interested, and on which all the Peers spiritual and temporal, who delivered their opinions, had, with very few exceptions, declared their conviction of her guilt.

"Because the abandonment of the bill, after the most profligate criminality had been substantiated by the strongest moral and legal evidence, is a measure calculated to bring into contempt, not only the character of our highest court of judicature, but that of the nation itself.

"Because we cannot observe, but with the deepest concern, extreme want of consideration for the sovereign in the dereliction of proceedings so necessarily brought on, by which a wife declared by the House of Peers to have been long guilty of an adulterous intercourse with a menial servant, and of conduct the most depraved, is to remain his Queen-consort, thus degrading the dignity of the Crown, and embarrassing the country with far greater difficulties than those which seem to have induced his majesty's government to relinquish the prosecution of the bill.

(Signed) SHEFFIELD.
NORTHUMBERLAND.
LOTHIAN.
WILLIAM (D. of Clarence.)
AYLESBURY."

II.

Adhuc, 10 *Die Novembris*, 1820.

"Dissentient,

"Because, that in a case of this nature, in which this House appears to us by its resolution to read the bill a second time, by its proceedings in the committee upon the bill and the report, and by its resolution to read the bill a third time, to have

strongly manifested that, in the judgment of a majority of this House, the guilt imputed in the preamble of the bill had been clearly proved, we think that considerations affecting the justice and honour of the House, made it fit that the bill should pass.

" Because this appears to us to have been the more fit in a case in which so many peers, who voted against the third reading of the bill, had declared their conviction that the guilt imputed had been proved.

" Because we also think that the House ought not, in considering whether the bill should pass, after its having been read a third time, to have been influenced by any regard to what might take place in an inquiry in the other House of Parliament as was suggested in the course of our debates, save only that we deem it to have been just, that the party accused should have had an opportunity of calling for the judgment of both Houses, when this House, proceeding by a bill of Pains and Penalties, had expressed in its resolutions a judgment unfavourable to that party.

" Because we cannot but apprehend that the resolution to adjourn the further consideration of the bill will lead to great misapprehension as to the real opinion of the majority of the peers of this House as it is to be collected from the antecedent proceedings, properly understood with reference to the question upon the guilt imputed to the party accused in the preamble of the bill.

(Signed) Shaftesbury.
Bridgewater.
Verulam.
William (D. of Clarence.)"

III.

" Dissentient,

" Because it has been clearly established by undeniable evidence, and confirmed by the votes and declarations of a great majority of the House of Peers, that the princess of Wales (now Queen) did commit adultery with a foreigner, and because we know of no other tribunal where this crime against the state, and against society, can be punished, or the repetition of the offence be prevented.

" Because the failure of this bill, unaccompanied by any other legislative or judicial proceeding, must encourage the commission of crime, and leave a great stain upon the honour of the throne, and the morals of the present generation.

(Signed) Harris.
William (D. of Clarence)."

IV.

" Dissentient,

" Because the guilt of her majesty the Queen having, after the fullest investigation and consideration of the evidence adduced for and against her majesty, been made out and established to the entire satisfaction of my honour and conscience, and the bill of Pains and Penalties having in the most solemn and deliberate manner, passed through its different stages, and received the sanction of this House to the third reading, I cannot allow of its abandonment at this period of the sedulous and exemplary attendance and labours of this House, without recording my protest against a measure which involves a dereliction of the sacred duty of administering justice by this House, and which suffers the most abandoned and licentious conduct to remain, if not triumphant, at least unpunished, to the disgrace of our country, in derogation of the honour and dignity of this House, and which tends to lower the first tribunal in the world in the estimation of this nation, of Europe, and of posterity. (Signed)
Powis.

(Signed) William
(Duke of Clarence.)"

Prorogation.] Nov. 23. The Speaker having entered the House, Mr. Denman rose and said, that he had a message to present from her majesty. At this moment the deputy usher of the Black Rod tapped at the door, and immediately entered. About fifty members rose in their seats, and the general cry was — " Mr. Denman, Mr. Denman!" " Withdraw, withdraw!" The deputy usher stated, that the lords commissioners desired the immediate attendance of the House in the House of Peers. Cries of " Shame!" were reiterated as the Speaker advanced towards the door. Mr. Bennet said, that this affair was a scandal to the country. The Speaker proceeded to the House of Lords, where the Lord Chancellor declared the Parliament to be prorogued to the 23rd of January 1821.

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